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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

LARRY BEACH BECKER  
PRESIDENT

Tuesday, 5:30 p.m.  
January 7, 1996 1997  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

DEC 23 1996

SAN FRANCISCO  
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For copy  
15 Feb  
12/21/96

I. Call to Order

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA  
SHARON K. WASSERMAN

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1818 Hyde St. R001-61R

One tenant appeals a decision granting certification of capital improvement costs.

B. 4220 Army St. (Cesar Chavez) R001-30A

The landlord appeals the decision granting rent reductions due to decreased housing services to the tenants in eleven units and determining rent overpayments for one unit.

C. 1800 Pacific Ave. #501 R001-62R

The tenant appeals the denial of his petition alleging decreased housing services.

D. 851 Post St. #4 R001-63R

The tenant appeals the decision denying claims of decreased housing services and rent overpayments.

E. 701 Fell St. #12 R001-32A

The landlord appeals the decision granting rent reductions due to decreased housing services but denying a claim of rent overpayments.

52

1

1/7/97

F. 505 - 26th Ave. #3

R001-33A

The landlord appeals the decision granting rent reductions due to decreased housing services but finding a failure to repair claim moot because the notice was null and void.

G. 426 Vernon St.

R001-34A

The landlord appeals the decision granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Codification of Artist Live/Work Policy

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

SF  
R52  
#2  
1/7/97

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, January 7, 1997 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JAN 13 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

SHIRLEY A. BIERLY President Becker called the meeting to order at 5:40 p.m.

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

II. Roll Call

Commissioners Present:	Becker; Bierly; Gruber; Palma; Wasserman.
Commissioners not Present:	Marshall.
Staff Present:	Grubb; Wolf.

Commissioner Murphy appeared on the record at 5:43 p.m.; Commissioner Lightner at 5:45 p.m.; Commissioner Moore at 5:50 p.m.; and Commissioner Mosser arrived at 5:58 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 17, 1996.  
(Palma/Bierly: 4-0)

IV. Consideration of Appeals

A. 1393 Goettingen St.	R001-60R (cont. from 12/17/96)
------------------------	-----------------------------------

The landlord's petition for certification of costs incurred in painting this single family dwelling was granted, resulting in a monthly passthrough in the amount of \$20.00. The tenants appeal the decision on the grounds of financial hardship. This matter was continued from the meeting on December 17th in order for staff to contact the tenants and get clarification regarding the information provided, including obtaining a separate "Hardship Application" from the tenant's wife.

MSC: To deny the appeal. (Gruber/Lightner: 4-1; Bierly dissenting)

B. 1818 Hyde St.	R001-61R
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The landlord's petition for certification of the costs of exterior painting and a new roof to the tenants in four units was granted, resulting in a monthly passthrough in the amount of \$24.39. One tenant appeals the decision, asserting that: she



was not given ample opportunity at the hearing to state her objections to the passthrough of roofing costs; roof leaks over a ten-year period had resulted in the loss of one-fourth of the usable space in her studio apartment; and, that if roof repairs had been effectuated in a timely fashion, the problem might have been solved.

MSC: To deny the appeal. (Palma/Gruber: 5-0)

C. 4220 Army St. (Cesar Chavez)

R001-30A

This case involves eleven tenant petitions alleging substantially decreased housing services and one petition alleging an unlawful increase in rent. The tenants' complaints fell, generally, into three areas: repairs to individual units; management; and maintenance of the common areas. The hearing officer determined that the landlord was liable to seven tenants in the amount of \$50.00 per month due to management's unresponsiveness regarding repair complaints in their individual units; that the landlord was liable to all eleven tenants in the amount of \$50.00 per month due to the lack of a competent resident manager on the premises; that the landlord was liable to all eleven tenants in the amount of \$50.00 per month due to lack of maintenance of the common areas; and that the landlord was liable to the tenant in unit #101 in the amount of \$1,669.03 due to a rent increase having been imposed prior to the one year anniversary date. On appeal, the landlord asserts that: the hearing officer erred in granting rent reductions prior to the inception dates of the instant tenancies; the issue of the fire escapes was not raised in the tenants' petitions, and only three of the tenant petitioners have access to the fire escapes; only one tenant complained about problems with the decks and/or balconies; all tenants were given the same rent reductions regardless of their individual circumstances, which is in violation of Rent Board policy; granting rent reductions due to lack of effective resident management on the premises and lack of maintenance of the common areas is duplicative; and the landlord's liability for rent overpayments to the tenant in unit #101 is excessive, considering that the notice was given just fifteen days shy of the one-year anniversary date.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Lightner/Palma: 5-0)

MSC: To deny the appeal. (Palma/Bierly: 5-0)

D. 1800 Pacific Ave. #501

R001-62R

The tenant's petition alleging substantial decreases in housing services was denied because the hearing officer found that the tenant failed to meet his burden of proof in that the landlord performed the promised work in less than one month and the conditions appeared to be primarily cosmetic. On appeal, the tenant maintains that the hearing officer demonstrated bias against him; and that the issue raised in his petition was not individual repairs but, rather, a total

combined loss of housing services caused by inept repair work done by the landlord's agents.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

E. 851 Post St. #4

R001-63R

The tenants' petition alleging substantially decreased housing services due to a clogged drain and leaking shower knobs was denied because the hearing officer found that the landlords acted within a reasonable period of time for a non-emergency repair and that the conditions were not sufficiently substantial to warrant rent reductions. Additionally, a claim of unlawful rent increase was denied because a clause that required an additional \$25.00 for installing a washing machine in the unit was part of the lease that the tenants signed when they moved in. On appeal, the tenants assert that the clause in the lease should not apply to them, because the washing machine hooks up to the kitchen sink and is not permanently installed; and that it should not take almost two months and fifteen visits to effectuate repairs.

MSC: To deny the appeal. (Lightner/Gruber: 4-1; Bierly dissenting)

F. 701 Fell St. #12

R001-32A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,230.00 due to windows with gaps that allow air into the unit and lack of a mailbox key. On appeal, the landlord alleges that the tenant failed to notify him of the problem regarding the windows until contacting the building inspector; and that the tenant had a key to the mailbox from the time he moved in.

MSC: To deny the appeal. (Becker/Palma: 5-0)

G. 505 - 26th Ave. #3

R001-33A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$1,965.00 due to habitability defects on the premises. The tenants' claim of unlawful rent increases was upheld due to capital improvement passthroughs having been improperly included in base rent, but no sums were determined to be owing from the landlord as the tenants had already made deductions from rent. The landlord, who failed to appear at the continued hearing on this case, appeals, alleging that: he failed to receive notice of the continued hearing and therefore was unable to present evidence on all of the issues raised; the conclusions regarding the correct base rent are confusing and may be in error; there is no requirement that the landlord provide a locking mailbox and the mailbox cannot be locked because the tenant lost the key; and the mouse infestation and window problems have been abated.



MSC: To accept the appeal and remand the case for a new hearing.  
(Lightner/Gruber: 5-0)

H. 426 Vernon St.

R001-34A

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$245.00 due to the landlord's failure to replace a washing machine and dryer on the premises. The landlord, who failed to appear at the properly noticed hearing, alleges on appeal that: the tenant-petitioner is a sub-tenant of the original tenant, who understood that the appliances had been left when the landlord vacated the premises and were not part of the housing services provided with the tenancy; and that the dryer has been in working order except for two or three days, as demonstrated by a plumbing invoice in the amount of \$4,649.95. A post-hearing submission from the landlord indicates that the landlord was on vacation and failed to receive notice of the hearing, which had been scheduled earlier than might have been reasonably expected.

MSC: To accept the appeal and remand the case for a new hearing.  
(Lightner/Gruber: 5-0)

V. Communications

The Commissioners received correspondence from parties involved in cases on the calendar.

VI. Director's Report

Executive Director Grubb raised a concern brought to his attention by staff at the Planning Department. Under Ordinance Section 37.9(a)(10), a tenant may be evicted if a landlord has the necessary permits to physically demolish or otherwise permanently remove a unit from housing use. Staff's interpretation of this Section has been that the unit cannot then be made into a family room, additional bedroom or any other residential space. However, this interpretation can have adverse consequences to tenants as well as landlords, lead to absurd results, and is in conflict with the requirements of other City departments. It was therefore the consensus of the Board that although Section 37.9(a)(10) requires the permanent removal of the residential unit, the space may then be used for any use permissible under applicable planning or building codes.

VII. Old Business

The Board's discussion of codification of their Artist Live/Work Policy was continued to the next meeting.



VIII. Remarks from the Public

A. Several tenants involved in the case at 4220 Army St. (Cesar Chavez) (R001-30A) asked questions concerning the Administrative Writ process and when they can begin offsetting rent reductions granted by the hearing officer.

B. The tenant in the case at 505 - 26th Ave. #3 (R001-33A) voiced her frustration over what she perceives as the Board's "bending over backwards" for the landlord in her case.

C. The landlord in the case at 505 - 26th Ave. #3 (R001-33A) informed the Commissioners that he has "very strong evidence" that he will present at the remand hearing granted pursuant to his appeal.

D. Robert Pender invited all of the Commissioners to the fourth birthday party for the Tenants' Network on Friday, January 24, 1997 at 6:00 p.m. at the Unitarian Church at Franklin and Geary.

E. The tenant in the case at 701 Fell St. #12 (R001-32A) asked, now that the landlord's appeal had been denied, if he could appeal what he perceived as errors in the decision and was informed that it was too late.

F. Landlord Glen Hildebrand simply wished the Commissioners a Happy New Year.

IX. Calendar Items

January 14, 1997 - NO MEETING

January 21, 1997 (6:00 p.m.)

6 appeal considerations

Old Business: Codification of Artist Live/Work Policy

January 28, 1997 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 7:00 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

LARRY BEACH BECKER  
PRESIDENT

SF  
R52  
#1  
1/2/97

Tuesday, 6:00 p.m.,  
January 21, 1997  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
VICE-PRESIDENT

AGENDA

I. Call to Order

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER

II. Roll Call

POLLY MARSHALL  
EVERETT Q. MOORE

III. Approval of the Minutes

NEVEO MOSSER  
BARTHOLOMEW MURPHY

IV. Remarks from the Public

NELI NIMA PALMA  
SHARON K. WASSERMAN

V. Consideration of Appeals

A. 1353, A & D Filbert St.

R001-35A &  
R001-64 & -65R

The landlord and two tenants appeal a decision certifying capital improvement costs.

B. 706 Kearny St. #33

R001-31A

The landlord appeals the decision determining rent overpayments.

C. 1576 Great Highway #102

R001-36A

The landlord appeals the decision partially granting a claim of decreased housing services.

D. 121 Broderick St.

R001-37A

The landlord appeals the portion of the decision denying rent increases based on increased operating expenses.

E. 1266 Stanyan St.

R001-38A

The landlord appeals the decision granting certification of capital improvement costs but denying increases based on operating expenses.

F. 600 Stanyan St. #1

R001-66R

The tenant appeals a Dismissal due to failure to appear.

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JAN 13 1997

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1/10/97

- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - Codification of Artist Live/Work Policy
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

City and County of San Francisco



LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

Residential Rent Stabilization  
and Arbitration Board

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, January 21, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

JAN 29 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

SHIRLEY A. BIERLY Vice-President Lightner called the meeting to order at 6:15 p.m.

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSE

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

II. Roll Call

Commissioners Present: Bierly; Gruber; Lightner; Marshall; Mosser;  
Palma.  
Commissioners not Present: Becker; Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Moore appeared on the record at 6:19 p.m.; Commissioner  
Murphy arrived at the meeting at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 7, 1997.  
(Palma/Gruber: 4-0)

IV. Remarks from the Public

Landlord Al Goodwin stated his belief that there no longer is a distinction  
between the decrease in housing services and failure to repair remedies, and  
asked that the Board look at this issue. Robert Pender once again invited all of  
the Commissioners to the Tenants' Network's fourth birthday party on Friday,  
January 24th at 6:00 p.m. at the Unitarian Church at Franklin and Geary.

V. Consideration of Appeals

A. 1353, A & D Filbert St.

R001-35A & R001-64 & -65R

The landlord's petition for certification of capital improvement costs was  
granted, in part. However, rent overpayments were determined to be owing  
from the landlord to the tenants due to increases improperly imposed during the  
"Transition Period" on these Proposition I Affected units. The landlord appeals  
the decision, asserting that: the cost of replacing a tree was incidental to  
underground fuel tank removal and should therefore be certified; disallowance  
of a 1.3% annual increase during the "Transition Period" puts owners of  
Proposition I Affected Units in a worse position than if they had been under the

jurisdiction of the Rent Ordinance; and a rent increase improperly given retroactively should not change the anniversary date for imposition of annual increases. Two tenants also appeal the decision, claiming that the Regulations that allow landlords of Proposition I Affected units to deem the petition as filed at an earlier date, thereby receiving a higher interest rate, are unfair; that the costs of the boiler should be amortized over a ten-year period in that the appliance is not a "water heater"; that the landlord has already been compensated for capital improvement work through the imposition of rent increases during the period prior to Rent Board jurisdiction; and that the underground tank removal does not meet the definition of a capital improvement in that there is no benefit to the tenants. One tenant also alleges financial hardship.

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Marshall/Gruber: 5-0)

MSC: To accept the landlord's appeal and remand the case to certify the cost of the tree replacement as a capital improvement; and to give additional consideration to the issue of whether the September, 1995 rent increases should be null and void. (Palma/Moore: 4-0)

MSC: To accept tenant Corrigan's appeal and remand the case on the issue of whether 10% is the appropriate rate of interest for the capital improvement work; and the allegation of tenant hardship. (Gruber/Marshall: 4-0)

MSC: To accept tenant Hecht's appeal and remand the case on the issue of the correct amortization period for the water heater/boiler; and to determine whether the landlord had previously been compensated for the costs of capital improvement work. (Gruber/Palma: 4-0)

B. 706 Kearny St. #33

R001-31A

Two tenant petitions filed by occupants of the same residential hotel room were granted and the landlord was found liable to one of the tenants for rent overpayments in the amount of \$450.96. The parties were advised to calculate the amount owing to the other tenant themselves because a lack of documentary evidence made it impossible for the hearing officer to do so. On appeal, the landlords assert that they are new owners of the property, and were never informed by the prior management that two tenants resided in the unit; that if banked amounts are taken into account, the 1994 rent increase may have been within limitations; and that the two tenants are roommates with joint and several liability for the rent.

MSC: To deny the appeal. (Moore/Marshall: 3-2; Gruber, Lightner dissenting)



C. 1576 Great Highway #102

R001-36A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,125.00 due to a serious leak in the bathroom ceiling. On appeal, the landlord contends that the ceiling only leaked when the upstairs tenant used the shower, and therefore, the rent reduction of \$225.00 per month (31%) is excessive.

MSC: To deny the appeal. (Marshall/Moore: 3-2; Gruber, Lightner dissenting)

D. 1266 Stanyan St.

R001-38A

The landlord's petition for certification of capital improvement costs was granted, in part. The portion of the landlord's petition seeking rent increases based on increased operating expenses was denied, however, because the increase in the landlord's expenses was not greater than the amount of the allowable annual increase. On appeal, the landlord contends that the hearing officer erred in her calculation of several categories of expenses; that pro-ration of costs down to portions of a month was required, which skewed the results; that the hearing officer should have attempted to determine the explanation for 8 checks submitted without invoices in the repair category at the hearing; and that a termite report given to a prior landlord should not trigger application of the "6-Month Rule" for purposes of certification of the dry rot work.

MSC: To accept the appeal and remand the case to the hearing officer on the record on the following issues: to correct the calculation of garbage expenses; to re-calculate water costs now that proof of payment for the entire 24 months has been provided; to re-calculate debt service costs on the basis of actual amounts that were paid and owing; and to check the calculation of maintenance expenses, ensuring that there are the same number of bills in the base and comparison years. (Gruber/Lightner: 5-0)

MSC: To accept the appeal and remand the case to the hearing officer on the record to apply Rules and Regulations Section 7.12(b) [the "6 Month Rule"] from the time of physical commencement of the work, and not from the date that estimates of work are provided or contracts are entered into. (Gruber/Lightner: 3-2; Marshall, Palma dissenting)

E. 121 Broderick St.

R001-37A

The landlords' petition for certification of capital improvement costs was granted. The portion of the petition requesting rent increases due to alleged increases in operating expenses was denied, however, because the landlord included only interest payments in the category of debt service. When the

hearing officer factored in mortgage payments inclusive of principal and interest, the landlords' expenses actually went down in the comparison year. On appeal, the landlords assert that generally accepted accounting and taxation principles include interest only when considering debt service; that principal paydown is actually equity buildup in the property and not an operating expense; and that by allowing consideration of principal, the Board is encouraging owners to add to their payment of principal in order to create exaggerated results.

MSC: To deny the appeal. (Marshall/Moore: 4-1; Gruber dissenting)

F. 600 Stanyan St. #1

R001-66R

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant provided verification that he was at work on the day of the hearing. By consensus of the Commission, this matter was continued in order for staff to contact the tenant and obtain additional information. Subsequent to the meeting, the tenant reached a settlement with the landlord and withdrew the appeal.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An analysis of various City departments' web server statistics, showing that the Rent Board has the most highly used web site on the Internet.

B. The monthly office workload statistics for November and December 1996.

C. A Memorandum from Senior Hearing Officer Sandy Gartzman summarizing the mediation statistics for the month of December; of the 11 mediation sessions actually conducted, 9 (82%) resulted in settlement.

D. A Memorandum from the Executive Director with a copy of recent amendments to the Rent Ordinance dealing with lead remediation, passthroughs and temporary evictions to eliminate lead hazards.

E. A letter from a landlord commending the Board's voicemail system ("Information To Go").

F. A menu for the Board's new "Fax Facts" system, which went on line as of Friday, January 17th, and which includes almost all Rent Board documents.

G. A letter from Randy Shaw, Executive Director of the Tenderloin Housing Clinic, stating his belief that the Board's interpretation of Ordinance Section 37.9(a)(10), concerning the removal of units from housing use, is incorrect. This

issue will be calendared for discussion and advice will be sought from the Office of the City Attorney.

H. A letter from Lena Emmery, a real estate broker, asking whether buildings containing one residential unit in combination with other units that are commercially zoned will be exempt from rent control pursuant to the provisions of the Costa-Hawkins Bill (AB 1164).

VII. Old Business

Codification of Artist Live/Work Policy

Commissioner Lightner reported that she had spoken to ex-Commissioner Ralph Payne, to see if he remembered why the Board's 1984 Policy Directive on Artists' Live/Work Tenancies requires that a building not be subject to the substantial rehabilitation provisions of the Ordinance in order to qualify for exemption from the Ordinance on these grounds. Further discussion of this issue was continued due to the absence of Commissioner Becker.

IV. Remarks from the Public (cont.)

Al Goodwin expressed his concurrence with the kudos for the Board's web site, but suggested re-formatting of the Ordinance and Rules because they work well on the screen but not as hard copy. He also inquired as to whether the staff's Policies and Procedures Manual was available for inspection. Robert Pender informed the Board that he had been elected to the State Democratic Central Committee for a two-year term.

VIII. New Business

Election of new Board officers will be calendared for the next meeting at which President Becker will be in attendance.

IX. Calendar Items

January 28, 1997 - NO MEETING

February 4, 1997 (6:00 p.m.)

1 appeal consideration

Old Business:

A. Codification of Artist Live/Work Policy

B. Election of Officers

New Business: Budget

X. Adjournment

Vice-President Lightner adjourned the meeting at 8:55 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
February 4, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

AGENDA

- I. Call to Order
- SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA  
SHARON K. WASSERMAN
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

DOCUMENTS DEPT.

JAN 29 1997

SAN FRANCISCO  
PUBLIC LIBRARY

A. 1234 - 1238 Vallejo St.

R001-39A

The landlord appeals a decision partially certifying capital improvement costs and granting rent increases based on increased operating expenses.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- A. Codification of Artist Live/Work Policy
- B. Election of Officers
- IV. Remarks from the Public (cont.)
- IX. New Business
- Budget
- X. Calendar Items
- XI. Adjournment





## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accom:g





# MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

LARRY BEACH BECKER  
PRESIDENT

Tuesday, February 4, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
VICE-PRESIDENT

DOCUMENTS DEPT.

FEB 12 1997

SAN FRANCISCO  
PUBLIC LIBRARY

## I. Call to Order

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSE  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA  
SHARON K. WASSERMAN

President Becker called the meeting to order at 6:05 p.m.

## II. Roll Call

Commissioners Present: Becker; Bierly; Marshall; Palma;  
Wasserman.  
Commissioners not Present: Lightner; Mosser.  
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:10 p.m.; Commissioner Moore appeared at 6:25 p.m.; and Commissioner Murphy arrived at 6:50 p.m.

## III. Approval of the Minutes

MSC: To approve the Minutes of January 21, 1997.  
(Marshall/Palma: 4-0)

## IV. Remarks from the Public

Robert Pender announced that the Tenants' Network's fourth birthday party was a great success and a good time was had by all. He also passed out copies of the Tenant Times.

## V. Consideration of Appeals

A. 1234 - 1238 Vallejo St.

R001-39A

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted, in part. However, the landlord's request for an additional 12.5% on each cost for "contractor's overhead" was denied, because the hearing officer found that no actual costs were incurred by the landlord for overhead; the landlord's involvement did not constitute "uncompensated labor"; nor was the landlord's involvement necessary for the completion of the subject work. On appeal, the landlord asserts that the costs of the work were substantially lowered because it was agreed between she and the subcontractors that she would be performing

"project management" functions; that the amount of the passthrough to the tenants would have been higher had she not performed in this capacity; and, at a minimum, she should be granted the 8% deemed reasonable by the estimator.

MSC: To deny the appeal. (Marshall/Palma: 3-1; Gruber dissenting)

#### VI. Communications

The Commissioners received the following communications:

A. A letter from Ted Gullickson of the Tenants Union regarding the Board's policy concerning evictions pursuant to Ordinance Section 37.9(a)(10).

B. A copy of the proposed budget for fiscal year 1997-98.

C. A Memorandum from the Ethics Commission regarding a provision of Proposition 208, a campaign reform measure passed by the electorate on November 5, 1996, which prohibits persons appointed to public boards or commissions from making campaign contributions to the appointing officer.

D. A revised staff roster.

E. President Becker reported that he had contacted the State Bar regarding the Board's referral of attorney David Dawson for questionable business practices. The response was that they were waiting for the outcome of a wrongful eviction lawsuit filed by the tenant, Arthur Roberts.

#### VII. Director's Report

Executive Director Grubb informed the Board that the imputed interest rate for capital improvements as of March 1, 1997 is 6.4% for seven year improvements and 6.5% for ten year improvements.

#### VIII. Old Business

Discussion of the codification of the Board's Artist Live/Work Policy was continued to the next meeting, as was the election of officers.

#### IX. New Business

A. Executive Director Grubb walked the Commissioners through the Department's Proposed Budget for Fiscal Year 1997-98, which totals \$98,000 less than last year's budget. Areas of increase include the addition of a permanent counselor position, as well as a full-time hearing officer; funds have also been requested for the refurbishing of the office, which was taken "as is" at the time of the 1989 earthquake, and has had no major improvements since that time. The Rent Board fee will remain at the same rate of \$10 per unit. At Commissioner Gruber's suggestion, the Director was instructed to also request

funding of a temporary hearing officer position for nine months, if possible. With that addition, the Board voted as follows:

MSC: To approve the Proposed Budget for Fiscal Year 1997-98.  
(Marshall/Murphy: 5-0)

B. Commissioner Murphy expressed his concern that, since many landlords refer to the Ordinance for information regarding evictions, the notice requirements pertaining to owner-occupancy evictions contained in Rules Section 12.14 should be reflected in the Ordinance as well. The Deputy Director will add this issue to the list of possible Ordinance amendments.

IV. Remarks from the Public (cont.)

Robert Pender suggested that the budget be mailed to various organizations representing tenants.

X. Calendar Items

February 11, 1997 - NO MEETING

February 18, 1997

4 appeal considerations

Old Business:

A. Codification of Artist Live/Work Policy

B. Election of Officers

XI. Adjournment

President Becker adjourned the meeting at 7:15 p.m.



## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

(2/97) lk/comm/accmtg

City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, 6:00 p.m.,

February 18, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

FEB 12 1997

SAN FRANCISCO  
PUBLIC LIBRARY

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2/11/97

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 2890 California St. R001-40A &  
R001-67R thru -78R

The landlord and tenants appeal a decision partially granting certification of capital improvement costs and claims of decreased housing services.

B. 236-1/2 San Jose Ave. R001-41A

The landlord appeals the decision determining rent overpayments because the hearing officer found that legalization of an existing unit did not qualify for exemption as new construction.

C. 1818 Hyde St. #5 R001-79R

The tenant untimely appeals a decision certifying capital improvement costs on the basis of financial hardship.

D. 1077 - 1081 Ashbury St.; R001- 80R thru -84R  
1038 & 1042 Clayton St.

Five tenants appeal the decision regarding rent increases issued pursuant to the RAP Program.

VI. Communications

VII. Director's Report



- VIII. Old Business
  - A. Codification of Artist Live/Work Policy
  - B. Election of Officers
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.  
MAYORTuesday, February 18, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORLARRY BEACH BECKER  
PRESIDENTMERRIE T. LIGHTNER  
VICE-PRESIDENT

DOCUMENTS DEPT.

MAR 05 1997

SAN FRANCISCO  
PUBLIC LIBRARYI. Call to Order

SHIRLEY A. BIERLY President Becker called the meeting to order at 6:05 p.m.

DAVID GUSTAV GRUBER  
POLLY MARSHALLII. Roll Call

EVERETT Q. MOORE

NEVEO MOSSE

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

Commissioners Present:

Becker; Bierly; Lightner; Marshall; Mosser;  
Palma; Wasserman.

Commissioners not Present:

Moore.

Staff Present:

Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:10 p.m.;  
Commissioner Murphy appeared at 6:15 p.m.III. Approval of the MinutesMSC: To approve the Minutes of February 4, 1997.  
(Marshall/Palma: 5-0)IV. Consideration of Appeals

A. 2890 California St.

R001-40A &  
R001-67R thru -78R

The landlords' petition for certification of capital improvement costs was granted, in part, resulting in a total passthrough in the amount of \$167.31 to the tenants in twenty-four units. Three tenant petitions claiming decreased housing services were also partially granted. On appeal, the landlord claims that the hearing officer erred in granting a rent reduction for wet walls and related problems through August, 1994, when exterior renovation work which abated the condition was concluded in May, 1993. One tenant appeals the portion of the decision certifying capital improvement costs on the grounds of financial hardship -- she and eleven other tenants maintain on appeal that the hearing officer was biased against them because he has a business relationship with the landlord's agent; that the capital improvements were necessitated by the landlords' deferred maintenance; that certain costs were improperly amortized; and that some of the work constituted repair rather than capital improvements. Additionally, one tenant claims that there are factual inaccuracies in the decision regarding her decreased housing service claims, including her alleged

failure to provide access to the landlords in order for them to remedy the conditions. Another tenant objects to the rent reduction amounts granted as insufficient; and disputes the hearing officer's finding that adequate security was provided in the building during the period of renovation work.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Lightner/Gruber: 5-0)

MSC: To accept the landlords' appeal (R001-40A) to determine which repair project cured the problems related to the wet walls in tenant Akeroyd's unit (#102) and terminate the rent reductions accordingly; and to accept the tenants' appeals (R001-67R thru -78R) only on the issue of proper amortization of the concrete work related to the exterior painting and waterproofing, which shall be for ten years. No further hearing will be held on these issues, and the record will be re-opened only if necessary. (Marshall/Palma: 5-0)

MSC: To accept the appeal of tenant Chiara in unit #501 (R001-78R) and remand the case for a hearing on the issue of financial hardship. (Marshall/Palma: 3-2; Gruber, Lightner dissenting)

MSC: To deny the separate appeal of tenant Akeroyd in unit #102 (R001-67R). (Gruber/Lightner: 5-0)

MSC: To deny the separate appeal of tenant Carleton in unit #405 (R001-75R). (Marshall/Gruber: 5-0)

B. 236-1/2 San Jose Ave.

R001-41A

The tenant's petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenant in the amount of \$3,178.75. The hearing officer determined that, although a Certificate of Occupancy for the subject premises had not been issued until 1996, the premises continue under Rent Board jurisdiction because mere legalization of an existing housing unit does not qualify for exemption as new construction. The landlord appeals, maintaining that the hearing officer's decision contradicts information that he and his counsel received from Rent Board staff members.

MSC: To deny the appeal. (Marshall/Palma: 5-0)

C. 1818 Hyde St. #5

R001-79R

The tenant's current appeal was filed approximately six weeks late. The tenant had timely filed a prior appeal to the decision certifying capital improvement costs on the grounds that she had not been provided sufficient opportunity to raise her objections, which had to do primarily with claims of decreased housing services. The instant appeal was filed fifteen days from the mailing of the Notice of Action on the prior appeal, which was denied. The tenant

maintains that, at the time of filing the prior appeal, she did not know that she could raise financial hardship as a grounds for appeal.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough in the amount of \$24.39 to the tenants in four units. One tenant appeals on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.  
(Marshall/Palma: 5-0)

D. 1077 - 1081 Ashbury St./1042 Clayton St. R001-80R thru -84R

Seven tenant petitions alleging unlawful rent increases exceeding the limitations under the Rehabilitation Assistance Program (RAP) were denied. The hearing officer found that the landlord had properly calculated the increase in the CPI since 1973 and correctly allocated the actual increased costs for the subject units as required pursuant to Ordinance Section 32.73; and that the defenses specified in Ordinance Section 32.73-1 only apply to properties in areas designated as under RAP jurisdiction after July 1, 1977, which is not the case for the subject building. On appeal, the tenants assert that: costs for work in the nature of capital improvements should be separated from the "maintenance" category; the increases were effectuated in "bad faith", in that they were imposed in order to make the building saleable; and the landlord should not be able to benefit from a "decade of deferred maintenance" by carrying out all repairs in one year, thereby creating exaggerated results.

MSC: To recuse Commissioner Murphy from consideration of this appeal. (Palma/Lightner: 5-0)

MSC: To accept the appeals and schedule a Board hearing on the issues raised by the tenants in their appeals. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

## V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a new copy of the Rent Ordinance containing recent amendments concerning lead remediation, passthroughs and temporary evictions to eliminate lead hazards.

## VI. Old Business

### A. Codification of Artist Live/Work Policy

The Commissioners continued their discussion of possible codification of the Board's Artist Live/Work Policy, which was adopted in 1984, and passed the following motion:

MSC: To hold a Public Hearing on March 11, 1997 at 6:00 p.m. to consider the following possible amendments to Rules and Regulations Section 1.17:

Section 1.17 Rental Units

"Rental Unit" means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings including parking facilities supplied in connection with the use or occupancy of such unit which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

(g) live/work units in a building where all of the following conditions have been met: (1) a lawful conversion to commercial/dwelling use occupancy (F-2/H) has occurred; (2) a Certificate of Occupancy has been issued by the San Francisco Department of Public Works after June 13, 1979; and (3) there has been no residential tenancy in the building of any kind between June 13, 1979 and the date of issuance of the Certificate of Occupancy. This term also shall not include commercially zoned space where there is incidental and infrequent residential use.

(Becker/Marshall: 5-0)

B. Election of Officers

President Becker nominated current Vice-President Lightner for President of the Board and Commissioner Neli Palma for Vice-President. As Commissioner Palma declined the nomination, President Becker nominated Commissioner Wasserman for Vice-President, which was accepted. The nominations were accepted by acclamation and congratulations were extended all around.

VII. Remarks from the Public

A. Robert Pender asked that the Minutes reflect the fact that the next meeting of the Tenants' Network will be on February 19, 1997 at the First Unitarian Church at Franklin and Geary from 5:30 to 7:30 p.m.

B. Glen Hildebrand asked that the Commissioners try and make the proposed regulations regarding the Board's Artist Live/Work Policy "clear for folks in the real world."

C. Sue Hildebrand extended her congratulations to the Board's new officers and thanked outgoing President Becker for his hard work.

D. A tenant inquired as to when the Board would be discussing the removal of housing units pursuant to Ordinance Section 37.9(a)(10) because he is currently facing an eviction for owner-occupancy [Ordinance Section 37.9(a)(8)].

VIII. Calendar Items

February 25, 1997 - NO MEETING

March 4, 1997

6 appeal considerations

Old Business: Evictions Pursuant to Ordinance Section 37.9(a)(10)

IX. Adjournment

President Lightner adjourned the meeting at 9:55 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

LARRY BEACH BECKER  
PRESIDENT

MERRIE T. LIGHTNER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
March 4, 1997  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

AGENDA

I. Call to Order

DOCUMENTS DEPT.

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER

II. Roll Call

FEB 28 1997

POLLY MARSHALL  
EVERETT Q. MOORE

III. Approval of the Minutes

SAN FRANCISCO  
PUBLIC LIBRARY

NEVEO MOSSER  
BARTHOLOMEW MURPHY

IV. Remarks from the Public

NELI NIMA PALMA

SHARON K. WASSERMAN

V. Consideration of Appeals

A. 2280 Pacific Ave.

R001-42A

The landlord appeals the decision partially granting the decreased housing claims of five tenants.

B. 2645 Polk St. #307 & 308

R001-85R & -86R

Two tenants appeal the decision certifying capital improvement costs and granting rent increases based on increased operating expenses.

C. 665 Pine St.

R001-43A &  
R001-87R thru -99R

The landlord and tenants appeal a decision partially granting certification of capital improvement costs.

D. 1534 Chesnut St.

R001-44A

The landlord appeals the decision on remand denying a rent increase based on comparables.

E. 1278 - 19th Ave.

R001-45A

The landlord appeals the remand decision granting claims of decreased housing services and rent overpayments.

F. 685 Fell St.

R001-46A

The landlord, a non-profit corporation, appeals the decision determining overpayments due to an initial rent in excess of the amount being paid to the owner and granting two tenants' claims of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Evictions Pursuant to Ordinance Section 37.9(a)(10)

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, March 4, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

MAR 13 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

Vice-President Wasserman called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Marshall; Moore;  
Mosser; Murphy; Wasserman.

Commissioners not Present:

Palma.

Staff Present:

Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 18, 1997 with the following correction: under Old Business, Section A, Codification of Artist Live/Work Policy: in the first paragraph of Section 1.17, Rental Units, line five, the words by agreement and residential shall also be underlined to indicate that they are new text. (Becker/Marshall: 5-0)

IV. Remarks from the Public

Robert Pender distributed a resolution and petition adopted on February 19, 1997 by the Tenants' Network urging State elected officials to restore the \$60.00 Renters' Tax Credit.

V. Consideration of Appeals

A. 2280 Pacific Ave.

R001-42A

Five tenant petitions alleging substantial decreases in housing services were granted, in part, and the landlord was found liable to the tenants in varying amounts due to: lack of elevator service in the twenty-four unit building for fifty-seven days; damp and damaged walls and ceilings in certain units due to leaks; an inoperable fire escape window; and a kitchen floor with loose tiles. On appeal, the landlord asserts that: the hearing officer erred as to the time period during which the elevator was malfunctioning; the rent reduction granted for the

lack of elevator service was punitive and not compensatory; one of the landlord's witnesses should have been considered an "expert"; a tenant who failed to appear at the hearings did not meet her burden of proof based on the hearsay testimony of her counsel; the tenants interfered with the landlord's repair attempts and refused to provide access; that the hearing officer erred as to the date that the landlord was given notice as to the wall and ceiling problems in unit #704 and as to the length of time that construction was taking place in that unit; and that the fire escape window was repaired promptly after the landlord received notice of the problem.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

B. 2645 Polk St. #307 & 308

R001-85R & -86R

The landlords' petition for certification of capital improvement costs and increases based on increased operating expenses was granted. Two tenants appeal on the grounds that: the landlords willingly entered into an arms-length negotiation for the purchase of the building with knowledge as to the existing rent structure and the tenants should not have to finance such acquisition; the landlords should not be entitled to pass through the costs of capital improvement work performed by the prior landlord as the landlords have been compensated for these costs in the purchase price; and the prior owner managed the building itself and the tenants should not have to pay for the current owners' management preferences.

MSC: To deny the appeals. (Gruber/Lightner: 5-0)

C. 665 Pine St.

R001-43A &

R001-87R thru -99R

The landlord's petition for certification of capital improvement costs to the tenants in 23 out of 40 units in the building was granted, in part; the landlord and thirteen tenants appeal the decision. The tenants appeal on the grounds that: painting of the garage only benefits those tenants who park at the garage level; much of the work is in the nature of repair and/or maintenance, and does not constitute capital improvements; removal of the underground storage tank does not benefit the tenants and the owner has already been compensated for this expense by the low purchase price of the building; and the old steam heat system was preferable to the new electric system, which was forced upon the tenants. On appeal, the landlord maintains that the hearing officer had no authority to certify the costs of installation of a new electrical heating system, but forestall the passthrough of those costs to the tenants until the steam heating system currently in place is no longer in use; he also alleges that there are ancillary benefits to the tenants in having a backup heating system in place, although he disputes that tenant "benefit" should be a consideration. Additionally, the landlord claims that costs for retiling of shower walls, reinstallation of a skylight and ancillary re-roofing work, and installation of electrical outlets, which were disallowed as repairs, are more properly considered capital improvements.



MSC: To deny the landlord's appeal. (Marshall/Becker: 4-1;  
Lightner dissenting)

MSC: To deny the tenants' appeals. (Wasserman/Gruber: 4-1;  
Marshall dissenting)

D. 1534 Chesnut St.

R001-44A

The landlord's petition for a rent increase based on comparables was granted, and an increase from \$400.00 to \$762.17 for this two-bedroom unit in the Marina district was found to be justified. Both parties appealed the decision and the case was remanded on the issue of comparables. In her Decision on Remand, the hearing officer denies the petition based on the landlord's failure to meet the requisite burden of proof. The landlord appeals the remand decision on the grounds that: the hearing officer had a conflict of interest in that she was acquainted with the tenant appellee; the requirements of Rules Section 6.11(a) are impossible to meet in cases such as this, with a 24-year tenancy; the landlord has been denied due process in that the tenant's evidence consisted of hearsay which prevented the landlord from direct and cross-examination of witnesses; and the decision is confiscatory in that it prevents the landlord from obtaining a fair and adequate rent.

MSC: To deny the appeal. (Becker/Marshall: 4-1; Gruber dissenting)

E. 1278 - 19th Ave.

R001-45A

The tenants' petition alleging substantial decreases in housing services and unlawful rent increases was granted, and the landlords were found liable to the tenants in the amount of \$3,035.00 based on habitability problems in the subject unit and \$771.78 due to rent overpayments. On appeal, the landlord provided a copy of a Notice from DBI showing that the conditions had been abated. The appeal was accepted and the case was remanded in order to determine the appropriate termination date for the rent reductions. In the Decision on Remand, the hearing officer upholds the original decision, finding that the landlord failed to comply with the conditions specified in that decision in order for the rent reductions to be discontinued. The landlord again appeals, asserting that the tenants had failed to provide notice of the problems in the unit; that the conditions were remedied immediately upon notification from the Department of Building Inspection; and that the hearing officer exhibited bias in favor of the tenants.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

F. 685 Fell St.

R001-46A

Two tenant petitions alleging substantial decreases in housing services and rent overpayments were partially granted. The landlord in this case (Independent Housing, hereinafter referred to as IH) is a non-profit corporation

which subleases, arranges and operates shared living situations; some ancillary social services are also provided. In addition to the monthly rent forwarded to the owner of the property, IH charges a \$35.00 monthly "management fee" which is added to each tenant's base rent. The hearing officer determined that the collection of this fee constituted a violation of Ordinance Section 37.3(c) of the Ordinance, in that IH was receiving more rent than the amount being forwarded to the owner. On appeal, IH asserts that: the \$35.00 charge is a fee for services, and does not constitute rent; Ordinance Section 37.3(c) is inapplicable since IH is not a tenant which resides at the premises; and the tenants' base rents have been found to be lawful in a prior Rent Board decision.

MSC: To recuse Commissioners Becker and Marshall from consideration of this appeal. (Murphy/Wasserman: 5-0)

MSC: To accept the appeal and remand the case to the hearing officer on the record to overturn the portion of the decision determining rent overpayments since Independent Housing is not a "tenant" as defined in Ordinance Section 37.2(r) and, therefore, Section 37.3 (c) is inapplicable; to uphold the decision in all other respects. (Wasserman/Gruber: 4-1; Moore dissenting)

#### VI. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following communications:

A. A letter from Gordon Park-Li, Clerk-Administrator of the Municipal Court, soliciting input on the possible implementation of the pretrial rent deposit pilot program pursuant to Section 1167.2 of the Code of Civil Procedure.

B. A letter from Joan Carter complaining of what she perceived as rude or indifferent treatment when she phoned the office for information.

C. A Memorandum from the Senior Hearing Officer regarding the office workload statistics for the month of January 1997. The statistical reports now include a detailed breakdown of arbitration and mediation results, and additional information concerning the issuance of decisions, agreements and dismissals.

D. A new Form 700 (Statement of Economic Interests).

#### VII. Director's Report

Executive Director Joe Grubb informed the Commissioners that their economic interest statements are due in the Ethics Commission Office by April 1st. He

also provided them with a new copy of the Rent Board's "Information to Go" script.

VIII. Consideration of Allegation of Wrongful Eviction

2280 Pacific Ave.

Q003-50E

Pursuant to the DBI Notice of Violation and Director's Hearing, repair work was ordered to commence on the tenant's unit which necessitated the removal of the living room ceiling. The tenant's health problems prevented him from residing in the unit during the period of ceiling removal, because the unit was filled with dust and debris. The tenant contended that the landlord should have served him a Notice to Vacate in compliance with the requirements of Ordinance Section 37.9(a)(11); that the landlord should have obtained the proper permits prior to commencement of the work; and that he was constructively evicted from the unit. The hearing officer agreed with the tenant's claim that, at least from the time that the ceiling was removed, the unit was uninhabitable and the landlord was obligated to effectuate a temporary eviction due to capital improvement work; and recommended that the Board send a strongly-worded letter to the landlord advising her of her legal rights and responsibilities.

MSC: To accept the hearing officer's recommendation and write an appropriately worded letter to the landlord.  
(Becker/Bierly: 5-0)

IX. Old Business

The Board's discussion of the issue of evictions pursuant to Ordinance Section 37.9(a)(10) was continued due to the information requested from the Deputy City Attorney not yet being available.

X. New Business

The Deputy Director provided the Commissioners with a report regarding pending litigation and it was agreed that Vice-President Wasserman would serve as a "Litigation Liason" with the Office of the City Attorney. Additionally, in the case of Susoeff v. Rent Board (Superior Court Case No. 984130), since there are no questions of public policy at issue, it was the consensus of the Board to allow the City's interests to be represented by counsel for the Real Party in Interest landlord. However, Deputy City Attorney Amy Ackerman will be instructed to file a short brief with the Court, stating that the Board stands behind its decision in this case.

XI. Calendar Items

March 11, 1997 - NO MEETING

March 18, 1997

7 appeal considerations

XII. Adjournment

President Lightner adjourned the meeting at 8:15 p.m.



February 28, 1997

DOCUMENTS DEPT.

MAR 04 1997 Fax Copy  
SAN FRANCISCO Post 2  
PUBLIC LIBRARY 2/28/97

**NOTICE OF PUBLIC  
HEARING**

DATE: March 11, 1997  
TIME: 6:00 P.M.  
PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)  
SUITE 70, LOWER LEVEL  
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE REGARDING THE ISSUE BELOW:

**AMENDING SECTION 1.17 RENTAL UNITS**

PROPOSED AMENDMENT TO THE RENT BOARD RULES AND REGULATIONS TO CODIFY THE BOARD'S POLICY AS TO LIVE/WORK FACILITIES.

Written comments may be sent to the Rent Board. As the Commission often receives many comments, they should be in the office no later than **Thursday March 6, 1997, 5 P.M.**, so that the Commissioners will have time to receive and review them prior to the meeting. **12 copies are requested.** While written comments may be submitted after this date or at the hearing, the opportunity to have your written comments fully considered may be jeopardized. Interested parties will also have an opportunity to comment regarding the amendments during the public hearing. Please note that a three-minute speaking rule may be imposed.



## **ACCESSIBLE MEETING POLICY**

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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52  
PAGE 2  
PUBLIC HEARING NOTICE

(New text is underlined)

**Section 1.17 Rental Units**

"Rental Unit" means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings including parking facilities supplied in connection with the use or occupancy of such unit which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

(g) live/work units in a building where all of the following conditions have been met: (1) a lawful conversion to commercial/dwelling use occupancy (F-2/H) has occurred; (2) a Certificate of Occupancy has been issued by the San Francisco Department of Public Works after June 13, 1979; and (3) there has been no residential tenancy in the building of any kind between June 13, 1979 and the date of issuance of the Certificate of Occupancy. This term also shall not include commercially zoned space where there is incidental and infrequent residential use.

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1915-1916

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1921-1922

1923-1924

1925-1926

## City and County of San Francisco

Residential Rent Stabilization  
and Arbitration BoardMINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.  
MAYORMERRIE T. LIGHTNER  
PRESIDENTTuesday, March 11, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

MAR 14 1997

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

President Lightner called the meeting to order at 6:10 p.m.

SAN FRANCISCO  
PUBLIC LIBRARYII. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Marshall;  
Mosses; Murphy; Palma; Wasserman.  
Commissioners not Present: Moore.  
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:15 p.m.

III. Public Hearing

## Codification of Artist Live/Work Policy

The Board commenced a Public Hearing at 6:12 p.m. Three representatives of the landlord community spoke: Jim Fabris from the S.F. Association of Realtors; Janan New of the S.F. Apartment Association; and Ken Cleaveland from the Ruilding Owners and Managers Association (BOMA). These individuals directed the Board's attention to letters drafted by Attorneys Nancy Lenvin and Clifford Fried, raising the following concerns, among others: that it is an abuse of the Board's power to redefine "rental units", in that zoning is the purview of the Planning Department; that the proposal muddies the distinction between commercial and residential units, and rent control as applied to commercial property is preempted by State law; that by inserting the phrase "regardless of zoning or legal status", the Board is legitimizing the illegal use of property, rather than discouraging such use; that the proposed amendment will lead to unintended consequences, in that it will lead to an increase in enforcement actions and resulting evictions; that new conditions for exemption from the Ordinance should be imposed by the Board of Supervisors; and that what appears to be reasonable language will, over time, be interpreted unreasonably, thereby having a chilling effect on owners with charitable impulses.

One tenant representative, Gloria Lopez, Director of St. Peter's Housing Committee, stated her belief that increased enforcement of housing codes is for the good, because illegal units are a reality in the City, especially in her community. President Lightner closed the Public Hearing at 6:20. At that time the





Page 2 of the Minutes of March 11, 1997

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Commissioners debated the issues raised and the language of the proposed amendment, including whether the words infrequent and incidental in subsection (h) should be separated by "and" or "and/or". After discussion, the following motion was made and carried:

MSC: To adopt the proposed amendments to Section 1.17 of the Rules and Regulations in order to codify the Board's Artist Live/Work Policy, with minor amendments, as follow below:

Section 1.17 Rental Units

"Rental Unit" means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings (including parking facilities supplied in connection with the use or occupancy of such unit), which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

(g) live/work units in a building where all of the following conditions have been met: (1) a lawful conversion to commercial/dwelling use occupancy has occurred; (2) a Certificate of Occupancy has been issued by the San Francisco Department of Public Works after June 13, 1979; and (3) there has been no residential tenancy in the building of any kind between June 13, 1979 and the date of issuance of the Certificate of Occupancy.

(h) commercial space where there is incidental and infrequent residential use.

(Becker/Marshall: 3-2; Gruber, Lightner dissenting)

IV. Communications

In addition to correspondence regarding issues pertaining to codification of the Artist Live/Work Policy, the Commissioners received a letter from Supervisor Barbara Kaufman congratulating Executive Director Grubb on the implementation of the new "Fax Facts" service.

V. Remarks from the Public

Landlord Glen Hildebrand expressed his displeasure at the fact that several of the landlord Commissioners had expressed a desire to consult with the Office of the City Attorney regarding the legality of the Board's Artist Live/Work Policy, which advice was not heeded by the majority; and reiterated his contention that Commissioner Palma should recuse herself from consideration of substantive matters. Commissioner Palma responded that she represents the Latino community, many of whose members reside in illegal units.

VI. Adjournment



Page 3 of the Minutes of March 11, 1997

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President Lightner adjourned the meeting at 7:30 p.m.



SF  
R52

# NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYORMERRIE T. LIGHTNER  
PRESIDENT

#1

Tuesday, 6:00 p.m.,

March 18, 1997

JOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENT

3/18/97

25 Van Ness Avenue, #70, Lower Level

## AGENDA

DOCUMENTS DEPT.

MAR 13 1997  
SAN FRANCISCO  
PUBLIC LIBRARY  
Fax Copy  
1st posted  
3/12/97

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

A. 1648 McAllister St. #2

R002-01R

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 1100 Leavenworth St. #4

R002-02R

One tenant appeals the decision certifying capital improvement costs on the basis of financial hardship.

C. 85 Henry St.

R001-47A

The landlord appeals the decision partially granting certification of capital improvement costs.

D. 1021 Castro St.

R001-48A

The landlord appeals the decision partially granting claims of decreased housing services.

E. 102 - 6th St. #9

R002-03R

The tenant appeals the decision partially granting claims of decreased housing services.

F. 2890 California St. #502, 305 &amp; 205

R002-04R thru -06R

The tenants in three units untimely appeal the decision certifying capital improvement costs on the grounds of financial hardship.



G. 179 Julian Ave. #10

R001-49A

The landlord appeals the decision granting claims of decreased housing services and determining rent overpayments.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, March 18, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

MAR 26 1997

SAN FRANCISCO  
PUBLIC LIBRARY

**I. Call to Order**

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA  
President Lightner called the meeting to order at 6:10 p.m.

**II. Roll Call**

Commissioners Present: Becker; Bierly; Gruber; Lightner; Moore;  
Murphy; Palma.  
Commissioners not Present: Marshall; Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Mosser appeared on the record at 6:13 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of March 4, 1997.  
(Palma/Becker: 5-0)

MSC: To approve the Minutes of March 11, 1997.  
(Becker/Palma: 5-0)

**IV. Remarks from the Public**

A tenant inquired as to why only five Commissioners vote, when there are more than five Commissioners on the Board. She also complained that her appeal was denied based on information submitted by the landlord but not provided to her.

**V. Consideration of Appeals**

A. 1647 McAllister St. #2

R002-01R

The landlords' petition for certification of capital improvement costs to the tenants in four units was granted. One tenant appeals the decision on the basis of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. Additionally, to send the landlords a copy of the Landlord Hardship Application and

inform them that they can raise hardship considerations as well; if both parties prove financial hardship, the hearing officer will balance the equities. (Palma/Becker: 5-0)

B. 1100 Leavenworth St. #4

R002-02R

The landlord's petition for certification of capital improvement costs to the tenants in four units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To deny the appeal. (Gruber/Palma: 5-0)

C. 85 Henry St.

R001-47A

The landlords' petition for certification of capital improvement costs was granted, in part. Costs associated with the removal of a tree, replanting of a small tree and sidewalk removal and restoration undergone to ascertain whether underground storage tank removal was necessary were not certified as not being in the nature of capital improvement. On appeal, the landlord asserts that the hearing officer erred in disallowing these costs, and that no explanation was provided.

MSF: To deny the appeal. (Bierly/Becker: 2-3; Gruber, Lightner, Palma dissenting)

MSC: To accept the appeal and remand the case to the hearing officer on the record to certify the cost of the replacement tree only. (Palma/Becker: 4-1; Gruber dissenting)

D. 1021 Castro St.

R001-48A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$210.00 due to leaks in a service porch area. Additionally, the hearing officer determined that the tenants would be entitled to a monthly rent reduction in the amount of \$75.00 should storage space on the premises be withdrawn from use. On appeal, the landlord maintains that, once he received notice that the porch wall area was separating, the repair was effectuated within two months; the separation was small and in an area not required to be waterproof; the tenant did not lose the use of the area; safety considerations led to the withdrawal of use of the storage space; and the amount granted is disproportionate to the actual value of the space.

MSC: To accept the appeal and remand the case on the issue of whether the porch repairs were effectuated within a reasonable period of time. (Palma/Becker: 4-1; Gruber dissenting)

E. 102 - 6th St. #9

R002-03R

The tenant's appeal was filed fifteen days late. The tenant claims that he was evicted from the residential hotel unit and didn't receive a copy of the decision even though he informed the Rent Board as to his new address.

MSC: To find good cause for the late filing of the appeal.  
(Palma/Becker: 5-0)

The tenant's petition alleging substantial decreases in housing services was granted in part and denied in part and the landlord was found liable to the tenant in the amount of \$200.00 due to unsanitary bathroom conditions and lack of effective pest control. On appeal, the tenant appears to be disputing the hearing officer's determination that the following conditions did not rise to the level of substantial decreases in housing services: the heater; electrical problems; light over the sink; health problems; and a leaking sink.

MSC: To deny the appeal. (Becker/Gruber: 5-0)

F. 2890 California St. #502, 305 & 205 R002-04R thru 06R

The tenants' appeals were filed one and one-half months late because it was their belief that hardship appeals were being filed on their behalf by an attorney with Legal Assistance to the Elderly.

MSC: To find good cause for the late filing of the appeals.  
(Becker/Bierly: 4-1; Gruber dissenting)

The landlords' petition for certification of capital improvement costs to the tenants in twenty-four units was granted, in part. The tenants in twelve units appealed the decision on various grounds; the appeals were accepted and remanded to the hearing officer on the record to change the amortization of one item only. Three of the tenants now file further appeals to the decision on the grounds of financial hardship.

MSC: To accept the appeals of tenants Carlo and Evelyn Albert in unit #205 and remand the case for a hearing on the tenants' claim of financial hardship. (Bierly/Becker: 5-0)

MSC: To deny the appeal of tenant Williams in unit #305.  
(Palma/Gruber: 4-1; Becker dissenting)

MSC: Based on the statement provided by the landlords in response to the tenants' appeals, to accept the appeal of tenant Tait in unit #502 and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Palma: 5-0)

G. 179 Julian Ave. #10

R001-49A

The tenant's petition alleging substantially decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,587.50 due to habitability defects in this residential hotel room. Additionally, the landlord was found liable to the tenant in the amount of \$11.70 due to overpayments in rent. On appeal, the landlord asserts that: the tenant failed to notify him regarding the lack of heat in the unit; the tenant was uncooperative in refusing access so that repairs could be effectuated; an inspection disclosed the fact that the tenant had the radiator in his room turned to the "Off" position; and the tenant was never without heat because he had the use of an electric heater.

MSC: To deny the appeal. (Palma/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A request from the landlord for postponement of the Board hearing scheduled for April 1st regarding the property at 1077 - 1081 Ashbury/1038 & 1042 Clayton Streets (R001-80R thru -84R), which was granted.

B. A Memorandum from City Attorney Louise Renne regarding the Commissioners' Statements of Economic Interests.

C. A letter to the landlord in the case at 2280 Pacific Ave. (Q003-50E) regarding failure to comply with the requirements of Ordinance Section 37.9(a)(11), which was modified slightly and signed by President Lightner.

VII. Director's Report

Executive Director Grubb reported as follows:

A. The Commissioners' Conflict of Interest forms are to be turned in to the Ethics Commission by April 1, 1997.

B. New "Fax Facts" menus were distributed with new topic areas, including Rent Board Minutes, Agendas and Ordinance amendments.

C. Deputy City Attorney Amy Ackerman is planning to provide the Commissioners with a confidential Memorandum regarding the issue of removal of units under Ordinance Section 37.9(a)(10) prior to the discussion of this topic at the April 1st Board meeting.

D. Stephen Harper has begun working as the office's new MIS (computer) person.



E. Robert Collins has been hired to fill the temporary counselor position and will begin work on March 31, 1997.

VIII. Calendar Items

March 25, 1997 - NO MEETING

April 1, 1997

2 appeal considerations

Old Business: Evictions Pursuant to Ordinance Section 37.9(a)(10)

IX. Adjournment

President Lightner adjourned the meeting at 7:50 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,

April 1, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

MAR 26 1997

Fax Copy  
1st Posted

SAN FRANCISCO  
PUBLIC LIBRARY

3/24/97

I. Call to Order

LARRY BEACH BECKER

II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

III. Approval of the Minutes

POLLY MARSHALL

EVERETT Q. MOORE

IV. Remarks from the Public

NEVEO MOSSER

BARTHOLOMEW MURPHY

V. Consideration of Appeals

NELI NIMA PALMA

A. 375 Euclid Ave. #104

R002-07R

The tenant appeals the denial of her petition alleging a decrease in housing services due to noise from upstairs neighbors.

B. 948A Rhode Island St.

R002-08R

The tenant untimely appeals the decision granting the landlord's Petition for Extension of Time to complete capital improvement work.

VI. Communications

VII. Director's Report

VIII. Old Business

Evictions Pursuant to Ordinance Section 37.9(a)(10)

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



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(2/97) lk/comm/accmgtg

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.  
MAYORMERRIE T. LIGHTNER  
PRESIDENTTuesday, April 1, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

APR 15 1997

SAN FRANCISCO  
PUBLIC LIBRARYI. Call to OrderLARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER

President Lightner called the meeting to order at 6:05 p.m.

POLLY MARSHALL  
EVERETT Q. MOOREII. Roll CallNEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Marshall;  
Moore; Murphy; Palma; Wasserman.Commissioners not Present:  
Staff Present:Mosser.  
Grubb; Wolf.III. Approval of the MinutesMSC: To approve the Minutes of March 18, 1997.  
(Palma/Gruber: 5-0)IV. Consideration of Appeals

A. 375 Euclid Ave. #104

R002-07R

The tenant's petition alleging a substantial decrease in housing services due to noise emanating from an upstairs unit was denied because the hearing officer found that the tenant's expectations regarding noise were not reasonable. On appeal, the tenant asserts that: other tenants in the building have also complained of noise from the neighbors' unit; the fact that she failed to raise this issue in a prior petition should not have been held against her; the landlord failed to respond to specific suggestions as to how the noise could be abated; and the landlord's attorney should have been present at the hearing.

MSC: To deny the appeal. (Palma/Gruber: 5-0)

B. 948A Rhode Island St.

R002-08R

The tenant's appeal was filed forty-one days late because at the time the decision was issued the tenant had been informed that she could remain in the unit during the period of construction work and, therefore, the issue was moot.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Palma: 5-0)



The landlord's petition for extension of time to complete capital improvement work was granted because the hearing officer found that the work in the tenant's unit could not be performed while the tenant was in possession of the premises and that the landlord's request that the tenant vacate the unit for a ten-month period was reasonable. On appeal, the tenant alleges that: subsequent to issuance of the decision, the landlord was granted an alteration to his building permit which made it possible for the tenant to remain in the unit during the work, and which reduced the amount of time necessary for the work to be completed; the hearing officer granted the landlord more time than he had requested in his petition; and the blue prints proffered by the landlord do not provide a sound basis for estimates of the time necessary for completion of the project.

MSC: To accept the appeal and remand the case to the hearing officer for a new hearing to look at the new facts alleged in the appeal; to correct the amount of time granted from 10 to 8 months; and to encourage the parties to mediate the dispute. (Marshall/Palma: 5-0)

#### V. Communications

The Commissioners received the following communications:

- A. A letter from Al Goodwin regarding Section 1466 of the California Civil Code regarding covenants running with the land.
- B. A new staff roster.
- C. The office workload statistics for the month of February.

#### VI. Director's Report

Executive Director Grubb provided the Commissioners with Notice of Absence forms to be completed any time that they will be out of State; and informed them that he will be on vacation from April 14th through May 2nd.

#### VII. Old Business

##### Evictions Pursuant to Ordinance Section 37.9(a)(10)

The Board continued their discussion of the issue of evictions under Ordinance Section 37.9(a)(10), which specifies that a tenant may be evicted if a landlord has the necessary permits to physically demolish or otherwise permanently remove a unit from housing use. The Policies and Procedures Manual developed and referenced by Rent Board staff states that the "Unit must be physically demolished or otherwise permanently removed from RESIDENTIAL HOUSING (e.g., turned into storage, laundry room, office or garage--with proper

permits--.) The unit cannot be made into a family room, additional bedroom, or other space for residential use and still comply with this section."

At the January 7, 1997 Board meeting, Executive Director Joe Grubb brought to the Commissioners' attention the fact that the above interpretation of what is permissible under Section 37.9(a)(10) was in conflict with the requirements of other City departments. It was the consensus of the Commissioners present at that meeting that, although Section 37.9(a)(10) requires the permanent removal of the residential unit, the space may then be used for any use permissible under applicable planning or building codes.

As Commissioner Marshall was not present at the January 7th meeting and had concerns about the change in policy, the issue was re-calendared for discussion. The tenant Commissioners present expressed concerns that evictions due to "mergers", or expansions of the landlord's unit (e.g., for use as a family room), should properly come under Ordinance Section 37.9(a)(8) [owner-occupancy], which contains a one-year rebuttable presumption for determinations of "good faith." The landlord Commissioners felt that the Rent Board should not stand in the way of the removal of illegal units with potentially hazardous conditions and, after such removal, restricting the use of such space contributes to the wasting of housing resources. There was a feeling among some Commissioners that a distinction should be drawn between situations where the landlord has been ordered by the Department of Building Inspection (DBI) to dismantle the unit and cases where the landlord is voluntarily doing so. It was the consensus of the Board that any policy adopted should be reconciled with the policies of the other City agencies involved (DBI, Planning), and that this problem is only part of a City-wide failure to address the issue of illegal units. Therefore, the Commissioners asked that Executive Director Joe Grubb draft a letter to the above-cited agencies for the Board's approval, and passed the below motion:

MSC: To state that the Board's policy on the issue of permissible actions under Ordinance Section 37.9(a)(10) is not as currently expressed in the Policies and Procedures Manual used by Rent Board staff; nor is it the statement regarding this issue contained in the Minutes of January 7, 1997. Rather, the Rent Board Commission takes no position on this issue until such time as there is better coordination between the relevant City agencies. All interested parties are reminded that Ordinance Section 37.9(a)(10) requires that any eviction carried out pursuant to that Section be effectuated in good faith, without ulterior reasons and with honest intent.  
(Marshall/Gruber: 4-1; Lightner dissenting)

#### VIII. Calendar Items

April 8 & 15, 1997 - NO MEETINGS

April 22, 1997

8 appeal considerations

IX. Adjournment

President Lightner adjourned the meeting at 7:50 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
April 22, 1997

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

DOCUMENTS DEPT.

APR 15 1997

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4/14/97

A. 3417 Lincoln Way R002-09R

The tenant appeals the Dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

B. 1730 A Oakdale Ave. R001-51A

The landlord appeals the decision partially granting claims of decreased housing services.

C. 740 Rhode Island St. R001-50A

The landlord appeals the decision partially granting rent increases due to increased operating expenses.

D. 3718 - 24th St. R002-10R

The tenant appeals the decision denying her claim of unlawful rent increase.

E. 143 Graystone Terr. R002-11R

The tenant appeals the decision granting rent increases based on increased operating expenses and certification of capital improvement costs.

F. 505 - 26th Ave. #1

R002-12R

The tenant appeals the remand decision granting rent increases based on increased operating expenses.

G. 2450 Lake St. #2

R001-52A &

The landlord and tenant appeal the remand decision partially granting claims of decreased housing services.

H. 2714 Webster St.

R002-13R

The tenant appeals the remand decision granting a rent increase based on comparable rents.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, April 22, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

MAY 05 1997

LARRY BEACH BECKER President Lightner called the meeting to order at 6:20 p.m.

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SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

II. Roll Call

Commissioners Present: Lightner; Marshall; Moore; Mosser;  
Murphy.  
Commissioners not Present: Becker; Bierly; Gruber; Palma; Wasserman.  
Staff Present: Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of April 1, 1997.  
(Mosser/Moore: 4-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network distributed copies of the Tenant Times to the Commissioners and informed the Board that he had collected 700 signatures supporting restoration of the Renters' Tax Credit. He questioned the legality of the meeting due to the absence of a voting neutral Commissioner, although a quorum was in attendance, and stated that he was going to refer the matter to the Ethics Commission. Landlord Glen Hildebrand inquired as to protocol in the event of a tie vote, and was informed that the matter would then be continued to the next meeting.

V. Consideration of Appeals

A. 3417 Lincoln Way

R002-09R

The tenant's petition alleging a substantial decrease in housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant provides proof that she was ill and undergoing treatment at a medical facility on the day of the hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Moore/Marshall: 4-0)

B. 1730 A Oakdale Ave.

R001-51A

The tenant's petition alleging substantially decreased housing services was granted only as to a problem with sewage backup into a common courtyard area in the amount of \$75.00 per month. The landlord appeals, claiming that it would be impossible to permanently resolve the problem of sewage backup since tenants put debris into the sewer; and that the hearing officer's decision provides an economic incentive for people to continue doing so.

MSC: To deny the appeal. (Marshall/Moore: 4-0)

C. 740 Rhode Island St.

R001-50A

The landlord's petition for rent increases for 8 out of 17 units based on increased operating expenses was granted, but not for the maximum 7% requested. On appeal, the landlord asserts that: the hearing officer misunderstood the evidence regarding the amount of payroll taxes paid on resident manager income, a highly technical area of employment law; the petition incorrectly allocated cash wages paid to an employee at another property to this building, which should be corrected; the allowable annual increase amount in effect at the time of filing of the petition should be used for purposes of determining the landlord's eligibility for an operating expense increase; documentation of the costs of a building office phone were not provided for the requisite two-year period because the phone was recently installed as a new service; the last invoice for the costs of the intercom phone was inadvertently omitted; payment of principle should not have been included in the debt service category but, rather, interest only should have been considered; and ordinary business expenses (e.g., accounting and legal services, postage fees, copying costs, etc.), while not part of the on-going operation and maintenance of the building, should be allowed to encourage efficient, professional management practices.

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Murphy/Mosser: 4-0)

MSC: To accept the appeal and remand the case to the hearing officer on issues 1 through 6 in the landlord's appeal, specifically: management costs; to use the annual increase amount in effect at the time of filing of the petition for purposes of determining eligibility for operating expense increases; and to re-examine the determination regarding both the intercom and building office phones. For any issues where the only problem is missing documentation, the landlord will be provided the opportunity to supply any necessary evidence. A new hearing will be held only if necessary.  
(Marshall/Moore: 4-0)

D. 3718 - 24th St.

R002-10R

The tenant's petition alleging an unlawful increase in rent was denied because the hearing officer found no credible evidence that delivery of the notice of rent increase was damaged and, therefore, delayed by the Post Office. On appeal, the tenant asserts that the hearing officer misinterpreted applicable sections of State law regarding proper service of notice to change the terms of a tenancy.

MSC: To deny the appeal. (Mosser/Moore: 4-0)

E. 143 Graystone Terr.

R002-11R

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses for the tenants in three units was granted, in part. The tenant in one unit appeals the decision, asserting that she should not be held liable for replacement of a 45-year old deck that had originally been improperly installed; and that the costs for installation of a new garden were clearly excessive.

MSC: To deny the appeal but to authorize the tenant to phase in repayment of the retroactive amounts owed in equal installments over an 8-month period commencing with the June 1, 1997 rent payment.  
(Mosser/Lightner: 3-1; Marshall dissenting)

F. 505 - 26th Ave. #1

R002-12R

The landlord's petition for rent increases based on increased operating expenses for the tenants in two units was granted. On appeal, the tenant in one unit disputes the base rent amount authorized in the decision because the figure provided by the landlord allegedly included a prior capital improvement passthrough; and claims that the landlord failed to adequately document his debt service costs.

MSC: To accept the appeal and remand the case to the hearing officer on the record to obtain clarification of the proper base rent for the tenant in unit #1. A hearing will be held only if necessary. (Marshall/Moore: 4-0)

G. 2450 Lake St. #2

R001-52A & R002-14R

The tenant's petition alleging substantial decreases in housing services was granted on remand because the hearing officer found that conditions pertaining to defective plumbing resulting in backups in the sink and bathtub and pest control had recurred since having been deemed abated by the Department of Building Inspection. Additionally, the determination that the landlord was liable to the tenant in the amount of \$20.00 due to a defective light switch was upheld. The landlord appeals the remand decision, claiming that: since the drain in

question services the whole building, if a pipe was clogged, there would have been water backup in a common courtyard and into other units in the building; sufficient pest control measures were employed, and only one cockroach was found during the exterminator's last visit to the property; and the tenant was not authorized to deduct \$100.00 from his rent as compensation for moving dishes and belongings in preparation for extermination. The tenant also appeals the remand decision, claiming that the hearing officer's determination that the problems had been abated was erroneous.

MSC: To deny both the landlord's and tenant's appeals.  
(Marshall/Moore; 4-0)

H. 2714 Webster St. #3

R002-13R

The landlord's petition for a rent increase based on comparable rents for the subject unit was denied but the landlord was found liable to the tenant in the amount of \$14,550.00 due to rent overpayments. On appeal by the landlord, the Board voted to remand the case for a new hearing on the issue of comparables; and to hold a Board hearing on the issue of the rent overpayments. The Board hearing was stayed pending the issuance of a remand decision on the comparables claim. The Decision on Remand grants a rent increase based on comparables from the corrected base rent amount of \$400.00 to \$976.24. The tenant appeals the remand decision, claiming that the hearing officer erred in rejecting the tenants' evidence regarding comparable rents, taken from the Tenants Union database and census data, and in finding that the subject unit is not comparable to other units in the building. The tenant also requests a stay of the comparables rent increase until the overpayment portion of the case can be heard before the Board.

MSC: To recuse Commissioner Moore from consideration of this appeal. (Marshall/Lightner: 4-0)

MSC: To deny the tenant's appeal, including the claim of financial hardship. The rent overpayment issue will now be scheduled for Board hearing. (Mosser/Lightner: 3-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of March.

B. The Annual Report on Eviction Notices filed with the Rent Board from Executive Director Joe Grubb to John Taylor, Clerk of the Board of Supervisors.

C. The Notice of Nonappearance in the case of Susoeff v. Rent Board (Superior Court Case No. 984-130) filed by Deputy City Attorney Amy Ackerman at the request of the Commission.

VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf provided the Board with an update regarding current and pending litigation.

IV. Remarks from the Public (cont.)

A. Landlord representative Al Goodwin again raised his point regarding what he perceives as a failure by the hearing officers to properly differentiate between claims of decreased housing services and failure to repair. He stated that Commissioner Marshall is the only incumbent with any long-term "institutional memory" and, he believes, hers is biased.

B. A woman in the audience inquired as to whether senior landlords have any special rights, as senior tenants do, in conjunction with her efforts to assist an elderly landowner in staying in her home.

C. Robert Pender of the Tenants' Network defended Commissioner Marshall's long tenure on the Board.

VIII. Calendar Items

April 29, 1997 - NO MEETING

May 6, 1997

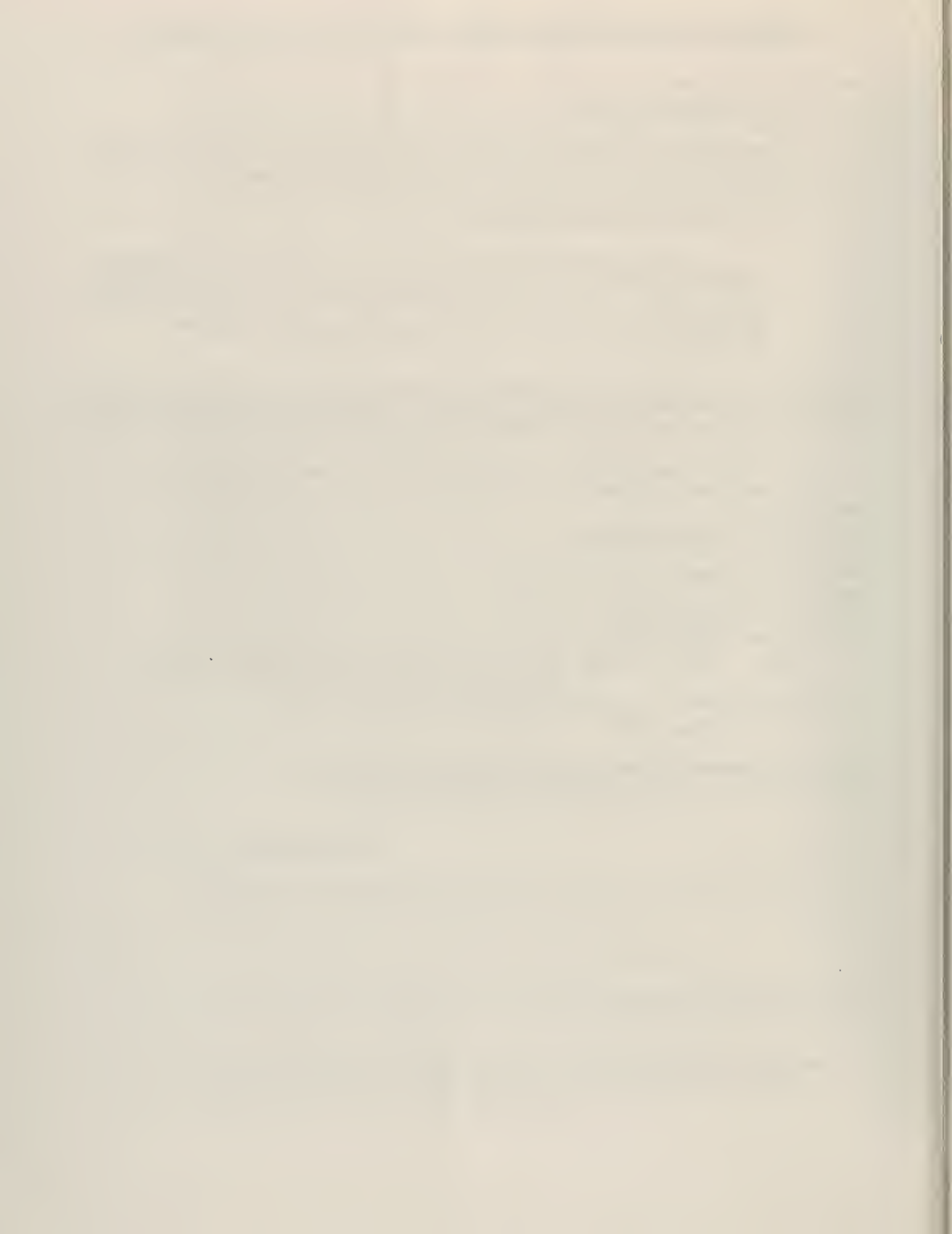
2 appeal considerations

6:30 Appeal Hearing: 1077 - 1081 Ashbury St.; 1038 & 1042 Clayton St.  
R001-80R thru -84R (acpt. 2/18/97)

IX. Adjournment

President Lightner adjourned the meeting at 8:30 p.m.









SF

R52

# NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER #1  
PRESIDENT

Tuesday, 6:00 p.m.,

May 6, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

5/6/97

## AGENDA

## I. Call to Order

DOCUMENTS DEPT.

LARRY BEACH BECKER  
SHIRLEY A. BIERLY

## II. Roll Call

MAY 05 1997

DAVID GUSTAV GRUBER  
POLLY MARSHALL

## III. Approval of the Minutes

SAN FRANCISCO  
PUBLIC LIBRARY

EVERETT Q. MOORE  
NEVEO MOSSER

## IV. Remarks from the Public

BARTHOLOMEW MURPHY  
NELI NIMA PALMA

## V. Consideration of Appeals

A. 3856 California St. #1

R002-15R

One tenant appeals the decision certifying capital improvements  
alleging incorrect allocation of costs and financial hardship.

B. 1940 Washington St. #300

R001-53A

The landlord appeals the decision granting refund of rent  
overpayments but denying claims of failure to repair and improper  
calculation of a PG&E passthrough.

## VI. Communications

## VII. Director's Report

## VIII. Old Business

## IV. Remarks from the Public (cont.)

## IX. New Business

## X. Appeal Hearing

6:30 1077 - 1081 Ashbury St.;  
1038 & 1042 Clayton St.

R001-80R thru -84R  
(acpt. 2/18/97)

## XI. Calendar Items

## XII. Adjournment



## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

(2/97) lk/comm/accmtg



# MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, May 6, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

MAY 16 1997

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## I. Call to Order

LARRY BEACH BECKER President Lightner called the meeting to order at 6:15 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER II.

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSE

BARTHOLOMEW MURPHY

NELI NIMA PALMA

## Roll Call

Commissioners Present:

Bierly; Lightner; Marshall; Moore; Mosser;  
Wasserman.

Commissioners not Present:

Becker; Gruber; Palma.

Staff Present:

Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:20 p.m.

## III. Approval of the Minutes

MSC: To approve the Minutes of April 22, 1997.  
(Marshall/Moore: 4-0)

## IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Commissioners that there will be a march and rally in support of legislation restricting evictions due to owner-occupancy on May 9th at 4:00 p.m. at Castro and 18th Streets.

## V. Consideration of Appeals

A. 3856 California St. #1

R002-15R

The landlord's petition for certification of capital improvement costs to the tenants in sixteen units was granted, in part. One tenant appeals the decision, asserting that: she should not be charged for work that was not performed in her unit, and from which she does not benefit; the decision allows for sums to be allocated to her that were not requested by the landlord in his petition; and, as she is retired and on a fixed income, the amount of the passthrough presents her with a financial hardship.

MSC: To deny the appeal. (Moore/Mosser: 4-1; Marshall dissenting)



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(2/97) lk/comm/accmtg



B. 1940 Washington St.

R001-53A

The tenant's petition alleging the landlord's failure to repair and an incorrectly calculated PG&E passthrough was denied. However, rent overpayments in the amount of \$4,952.52 were determined due to the landlord's failure to discontinue capital improvement passthroughs upon expiration of the amortization periods, inclusion of the passthroughs in base rent, and adding on of the passthrough amounts even though they were already included in the rent. On appeal, the landlord maintains that: the hearing officer failed to offset a refund already issued by the landlord in the amount of \$1,400.82; and that equity requires that the landlord be credited with annual increase amounts that he would have imposed had he not detrimentally relied on the tenant's agreement to an improper base rent as settlement of a prior petition.

MSC: To accept the appeal and remand the case to the hearing officer on the record to offset the amount already paid by the landlord to the tenant from the amount owing.  
(Marshall/Wasserman: 5-0)

VI. Appeal Hearing

1077 - 1081 Ashbury St.;  
1038 & 1042 Clayton St.

R001-80R thru -84R  
(acpt. 2/18/97)

Seven tenant petitions alleging unlawful increases exceeding limitations under the Rehabilitation Assistance Program (RAP) were denied. The hearing officer found that the landlord had properly calculated the increase in the CPI since 1973 and correctly allocated the actual increased costs for the subject units as required pursuant to Ordinance Section 32.73; and that the defenses specified in Ordinance Section 32.73-1 only apply to properties in areas designated as under RAP jurisdiction after July 1, 1977, which is not the case for the subject building. On appeal, the tenants asserted that: costs for work in the nature of capital improvements should be separated from the "maintenance" category; the increases were effectuated in "bad faith", in that they were imposed in order to make the building more salable; and the landlord should not be able to benefit from a "decade of deferred maintenance" by carrying out all repairs in one year, thereby creating exaggerated results. At their meeting on February 18, 1997, the Commissioners voted to accept the appeals and schedule a Board hearing on the issues raised by the tenants in their appeals.

The appeal hearing commenced at 7:00 p.m. At that time, the following motion was made:

MSC: To recuse Commissioner Murphy from consideration of this case. (Wasserman/Marshall: 5-0)

In attendance were the landlords, accompanied by their attorney and a witness, the Realtor who prepared the RAP forms for the prior owner; and three tenants, along with their attorney. At the commencement of the hearing, the attorneys for

both sides stipulated as to the facts and figures used in the Decision of Hearing Officer, with the exception of a mistake in the amount of property taxes paid in 1973 pointed out by the landlord's attorney and which worked to the tenants' advantage. Therefore, testimony at the hearing consisted of legal argument regarding the issues raised in the tenants' appeals. The tenants' attorney contended that: the language in the RAP Ordinance and Rules refers to an "annual" CPI adjustment which, therefore, must be calculated annually or lost; a loan to do capital improvement work should not allow for recovery of such costs under the category of "maintenance", in effect constituting double recovery; the fact that the majority of the costs were incurred in one year created skewed results; such costs should not become part of base rent; and the amount should be recalculated each year in order to reflect any subsequent decreases in expenses. Counsel for the landlord argued that: a landlord's motive, intent and presence or absence of "good faith" in effectuating allowable increases are irrelevant under RAP; the hearing officer followed the proper procedure in calculating the increases, which is more analogous to "banking" under the Rent Ordinance than calculation of increases due to increased operating expenses; changes in the Regulations for areas designated after 1977 are irrelevant to the instant case; and, whereas the CPI and expense increase calculations had historically been provided to landlords by the Real Estate Department, when the program was transferred to the Mayor's Office of Housing in 1994 or 1995 only the CPI calculation was provided, resulting in a delay in the issuance of rent increase notices in the subject case.

The hearing concluded at 8:45 p.m. After consideration of oral testimony and documentary evidence, and after lengthy discussion, the Board passed the following motion:

MSC: To reduce the amount of the allowable expenses in the maintenance category by \$7,600.00, said sum more properly representing capital improvement costs; to correct the amount of property taxes for the year 1973; to find that the tenants' base rent is the rent due on the date that the property came under Rent Board jurisdiction, or July 11, 1996, as calculated pursuant to the Board's Decision on Appeal; and to find that the Notices of Rent Increase effective June 1, 1996 are valid because the failure to comply with the April 1st deadline was not the fault of the owner. (Wasserman/Marshall: 5-0)

#### VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received Mediation Statistics for the month of March from Senior Hearing Officer Sandy Gartzman.

#### VIII. Calendar Items

May 13, 1997 - NO MEETING



May 20, 1997

4 appeal considerations

6:30 Appeal Hearing: 2714 Webster St. Q001-55A (acpt. 6/4/96)  
New Business: Proposed Procedural Changes

IX. Adjournment

President Lightner adjourned the meeting at 10:15 p.m.



NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.  
MAYORMERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,

May 20, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENT

## AGENDA

## I. Call to Order

LARRY BEACH BECKER

## II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

## III. Approval of the Minutes

## IV. Remarks from the Public

## V. Consideration of Appeals

## A. 60 Leavenworth St. #34

R001-54A

The landlord appeals a remand decision granting claims of decreased housing services.

## B. 1169 Market St.

R002-16R thru -18R

Three tenants appeal the decision determining rent increases to be lawful because of the Ordinance exemption for new construction.

## C. 930 Sutter St.

R001-56A &amp; R002-20R

The landlord and one tenant appeal the decision granting rent increases based on increased operating expenses and certifying capital improvement costs.

## D. 505 - 36th Ave.

R001-55A

The landlord appeals the decision determining a rent increase for a garage space to be unlawful.

## VI. Communications

## VII. Director's Report

## VIII. Old Business

## IV. Remarks from the Public (cont.)

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MAY 16 1997

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IX. New Business

Proposed Procedural Changes:

A. Proposed Regulations Allowing for Administrative Dismissals of  
Operating Expense and Comparables Petitions

B. "Minute Orders"

C. Appraiser for Comparables Petitions

X. Appeal Hearing

6:30 2714 Webster St.

Q001-55A  
(acpt. 6/4/96)

XI. Calendar Items

XII. Adjournment

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR



MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, May 20, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBBS  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER President Lightner called the meeting to order at 6:15 p.m.

SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSE  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

II. Roll Call

Commissioners Present: Becker; Gruber; Lightner; Marshall; Moore;  
Mosser; Murphy; Palma; Wasserman.  
Commissioners not Present: Bierly.  
Staff Present: Gartzman; Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of May 6, 1997.  
(Marshall/Palma: 5-0)

IV. Consideration of Appeals

A. 1169 Market St. R002-16R thru -18R

Three tenant petitions alleging unlawful increases in rent were denied because the hearing officer found that the subject units, ballroom space reconfigured for residential use, are exempt from Rent Board jurisdiction because they constitute "new construction" as defined in Rules and Regulations Section 1.17(e). On appeal, the tenants assert that: Rules Section 1.17(e) must be read in conjunction with Ordinance Section 37.2(p)(5), which together require that the new units be newly constructed and located in a structure for which a Certificate of Occupancy was first issued after June 13, 1979, which is not true in the instant case; fairness requires that all units within a building have the same rent control status; the new units are not located in a separate structure, but were built within the envelope of the existing structure; and, since the landlord always believed that the units were under rent control, exemption from the Ordinance was not a motivating factor in their construction.

MSC: To recuse Commissioner Gruber from consideration of this case. (Becker/Palma: 5-0)

MSC: To recuse Commissioner Murphy from consideration of this matter. (Becker/Mosser: 5-0)

MSC: To deny the appeals. (Lightner/Mosser: 3-2; Becker, Marshall dissenting)

B. 930 Sutter St.

R001-56A & R002-20R

The landlord's petition for certification of capital improvement costs to the tenants in 11 out of 49 units and rent increases based on increased operating expenses to the tenants in 7 units was granted, in part. One tenant appeals the decision, claiming that he failed to receive the Notice of Hearing and raising questions concerning a non-operational water heater; whether elevator repairs benefit him since he resides on the first floor of the building; and stating that he should not pay for items for which the landlord receives tax deductions. The landlord also appeals, asserting that: the hearing officer erred in assuming that the petition was withdrawn as to the tenants in two units; the hearing officer should have allowed an "interest only" calculation for the debt service expense category; the supplemental property tax bill was improperly prorated over an entire year, when the tax rate only increased as of the date of sale of the property; and the Year 2 figures in the maintenance and repair categories on Table 1 are incorrect.

MSC: To deny the tenant's appeal. However, if the tenant has suffered a substantial decrease in housing services due to a non-operational water heater, he is advised that he may file a petition requesting a commensurate rent reduction. (Gruber/Lightner: 5-0)

MSC: To deny the appeal on the issue of debt service; to accept the appeal and remand the case to the hearing officer on the record to prorate the supplemental property tax bill only for the portion of the year after which the tax rate had increased; to technically correct the figures in the Year 2 maintenance and repair categories on Table 1; and to add the two units (#107 and #501) improperly deemed to have been withdrawn from the petition. (Marshall/Becker: 5-0)

#### V. New Business

Senior Hearing Officer Sandra Gartzman presented and discussed proposals for certain procedural changes, specifically:

##### A. Administrative Dismissal of Landlord Petitions

Currently, Rent Board staff spends a great deal of time reviewing, hearing and deciding operating and maintenance and comparables petitions which are defective and/or incomplete due to inadequate documentation. Some months ago, the Commission approved, in principal, regulations providing for administrative dismissal of such petitions, similar to regulations already in place for capital improvement petitions (Rules and Regulations Section 7.17). Draft



administrative dismissal regulations were provided to the Board which will be reviewed, discussed at the next meeting, and possibly put out for Public Hearing.

#### B. Minute Orders

In order to expedite the timely issuance of hearing officer decisions, an Expedited Hearing Process was implemented in 1992. However, the process has not been widely used due to certain limitations codified into law and the great degree of cooperation that is required between the parties. In order to capitalize on the advantages of the expedited process and avoid its shortcomings, the Hearing Officer staff has proposed offering petitioners the option of a "Minute Order". The Minute Order would be issued within 10 days of the hearing and would be similar to an Expedited Hearing Order; there would be no appeal. Within 15 days, however, either party could request that a full decision be issued, with current appeal rights. The Commissioners requested that feedback regarding this proposal be solicited from the tenant and landlord communities; Ms. Gartzman will draft informational materials for this purpose for the Board's approval. This issue then be re-calendared for discussion and possible implementation as a Pilot Program.

#### C. Appraiser for Comparables Petitions

The increased volume and complexity of comparables petitions has created problems for parties attempting to obtain adequate evidence regarding comparable rents for long-term tenancies, and for hearing officers adjudicating these cases. The concept of utilizing the services of an appraiser, similar to the independent estimator in capital improvement cases, will be discussed at the next meeting.

#### VI. Appeal Hearing

2714 Webster St. #3

Q001-55A  
(acpt. 6/4/96)

The landlord's petition for a rent increase based on comparable rents for the subject unit was denied because the hearing officer found that the landlord failed to meet his burden of proof in justifying the amount of increase requested. The landlord was also found liable to the tenant in the amount of \$14,500.00 due to unlawful rent increases. On appeal, the landlord maintained that: he was being penalized for an act of charity, in that the tenant's occupancy was supposed to have been temporary, while the tenant was recovering from an illness, and the sums collected represented expense reimbursement rather than rent; the decision violated the Evidence Code in that the only evidence in the record was the testimony of the landlord's expert witness, which was not countervailed by the tenant; and, by disallowing the establishment of a near market rent for the unit, the decision denied the landlord of a reasonable return on his investment and constituted an unlawful taking of his property in violation of the United States and California Constitutions. At their meeting on June 4,

1996, the Board voted to remand the case for a new hearing on the issue of comparables and to hold a Board hearing on the issue of the rent overpayments. The Board hearing was stayed pending the issuance of a remand decision on the comparables claim.

The Decision of Hearing Officer on Remand granted a rent increase based on comparables from the corrected base rent amount of \$400.00 to \$976.24. The tenant appealed the remand decision, asserting that the hearing officer erred in rejecting the tenant's evidence regarding comparable rents taken from the Tenants Union database and census data, and in finding that the subject unit is not comparable to other units in the building. The tenant also raised a claim of financial hardship and requested a stay of the comparables increase until the overpayment portion of the case was heard before the Board. At the meeting on April 22, 1997, the tenant's appeal was denied and the Board hearing on the issue of the rent overpayments was, accordingly, scheduled.

The appeal hearing commenced at 7:45 p.m. At that time, the following motion was made:

MSC: To recuse Commissioner Moore from consideration of this case. (Becker/Mosser: 5-0)

In attendance was the landlord, accompanied by his attorney, and the tenant, representing himself. At the commencement of the hearing, the parties stipulated as to the rent history and the amounts that the tenant has been paying to the landlord. Testimony focused on the unusual circumstances surrounding the inception of this tenancy and the equities on both sides. After offsetting amounts due to the landlord from the tenant for reimbursement of the approved comparables rent increase from the overpayment amount owing to the tenant, it appeared that the sum of \$3,025.20 remained owing to the tenant from the landlord. After the conclusion of the hearing at 9:00 p.m., the parties were given an opportunity to settle this matter, but did not do so. After discussion, it was the consensus of the Board that, due to laches and other equitable considerations, there should be no exchange of funds between the parties. Staff will draft a proposed decision for approval by the Board at a future meeting.

#### IV. Consideration of Appeals (cont.)

C. 60 Leavenworth St. #34

R001-54A

The tenant's petition alleging serious habitability problems in the subject unit was granted and the landlord was found liable to the tenant in the amount of \$1,305.00 due to leaking pipes in the kitchen sink; a large hole in the bathroom ceiling, allowing in waste water from the upstairs unit; a leaking refrigerator; and cockroach and rodent infestation. On appeal, the landlord claims that the sums granted are excessive because all of the items in the Notice of Violation had been corrected by the time of the hearing; that there are too many people

residing in the unit; and that the tenant had people lie to the inspector, which prevented him from obtaining evidence that the conditions had been abated.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

D. 505 - 36th Ave.

R001-55A

The tenant's petition alleging an unlawful increase was rent was granted, in that the amount imposed was in excess of legal limitations. However, the hearing officer determined that there had not been two rent increases within a 12-month period, because the first increase was due to an additional housing service (parking). The landlord appeals, questioning the inclusion of the parking space with base rent; asking whether parking spaces are regulated and, if so, inquiring as to the amount of allowable increases on garage space; and inquiring as to why he must file a comparables petition for rent increases not imposed during a period of time when the building was exempt due to owner-occupancy.

MSC: To deny the appeal; staff will write an explanatory letter in response to the questions raised in the landlord's appeal.  
(Becker/Marshall: 5-0)

#### VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners were provided with a copy of the Order in the case of Larsen v. Rent Board (Superior Court No. 979777).

#### VIII. Director's Report

Executive Director Grubb reported as follows:

A. The Rent Board's Web site on the Internet continues to have the highest use among City departments, with 5,200 "hits" last month.

B. At the request of members of the landlord community, a change has been made in the automatic transfer function on the "Information To Go" voice mail line. Previously, an individual could be transferred from the script regarding "Repairs" directly to the Department of Building Inspection. It was felt that, on the one hand, the Rent Board counsels communication in its recorded message while on the other hand, facilitating the filing of complaints against landlords by tenants. The automatic transfer function now connects the individual with the "Outreach Program", a collaborative effort between the S.F. Apartment Association, the Department of Building Inspection, St. Peter's Housing Committee and the Housing Rights Committee.

C. The Commissioners were reminded that they are eligible for benefits provided to City employees, and that the "Open Enrollment" period will end at the end of May.

D. This year, raises for the Executive and Deputy Directors will be tied to performance. Mr. Grubb will be evaluating Deputy Director Wolf and the Commissioners will be asked to provide an evaluation of Mr. Grubb.

IX. Remarks from the Public

Commissioner Moore, who had been recused from participation in the appeal hearing concerning the case at 2714 Webster St. (Q001-55A), expressed his belief that the Commissioners had acted in flagrant disregard of the law during their deliberations on this matter.

X. Calendar Items

May 27, 1997 - NO MEETING

June 3, 1997 - NO MEETING (Election Day)

June 10, 1997

4 appeal considerations

Old Business:

A. Proposed Procedural Changes

B. 2714 Webster St. (Q001-55A) (heard May 20, 1997)

C. 1077-1081 Ashbury/1038 - 1042 Clayton (R001-80R thru -84R)  
(heard May 6, 1997)

XI. Adjournment

President Lightner adjourned the meeting at 9:40 p.m.

SF  
R52  
#1

6/10/97

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
June 10, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

## AGENDA

## DOCUMENTS DEPT

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

JUN 03 1997

SAN FRANCISCO  
PUBLIC LIBRARY

1st posted 6/15/97

## A. 3435 Mission St.

R002-19R

The tenant appeals the dismissal of her petition alleging decreased housing services and an unlawful rent increase due to her failure to appear at the hearing.

## B. 38 Dearborn St.

R001-57A

The landlord appeals the decision determining rent overpayments to the tenants in two units.

## C. 1450 Washington St. #7

R002-21R

The tenant appeals the dismissal of her petition alleging an unlawful increase in rent and decreases in housing services due to her failure to appear.

## D. 2030 - 23rd St.

R001-58A

The landlord appeals the decision granting a claim of decreased housing services, claiming non-receipt of the Notice of Hearing.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

- A. Proposed Procedural Changes: Administrative Dismissal Regs.;  
"Minute Orders"; and Comparables Appraiser
- B. 2714 Webster St. (Q001-55A) (heard May 20, 1997)
- C. 1077 - 1081 Ashbury/1038 - 1042 Clayton (R001-80R thru -84R)  
(heard May 6, 1997)
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, June 10, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUN 13 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER Vice-President Wasserman called the meeting to order at 6:06 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Marshall; Mosser;  
Palma; Wasserman.  
Commissioners not Present: Moore.  
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:11 p.m.;  
Commissioner Murphy arrived at 6:19 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 20, 1997.  
(Palma/Becker: 4-0)

IV. Consideration of Appeals

A. 3435 Mission St.

R002-19R

The tenant's petition alleging an unlawful increase in rent and substantially decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims that she missed the hearing because she had to be out of town on an emergency.

MSC: To accept the appeal and remand the case for a new hearing.  
(Palma/Marshall: 4-0)

B. 38 Dearborn St.

R001-57A

Two tenant petitions alleging unlawful increases in rent were granted and the landlords were found liable in the amounts of \$5,170.00 and \$2,699.85. On appeal, the landlords maintain that the decision is unfair because the excessive increases were imposed by the prior owners of the property and the fact that petitions had been filed was not disclosed prior to the closing of escrow on the purchase of the building. Additionally, for one of the units, the landlord points

out that a refund was given for a 12-month period when only 7 months were at issue.

MSC: To deny the appeal except to remand the case to the hearing officer for the issuance of a Technical Correction.  
(Marshall/Becker: 5-0)

C. 1450 Washington St. #7

R002-21R

The tenant's petition alleging an unlawful increase in rent and substantial decreases in housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant states that her flight to San Francisco was delayed, and her roommate had not received notice of the hearing because she had not been listed on the petition.

MSC: To accept the appeal and remand the case for a new hearing. The remand hearing shall be held in abeyance pending the issuance of the Decision of Hearing Officer regarding the landlord's petition for a determination as to whether one of the subject tenants is a new tenant for purposes of raising the rent pursuant to the provisions of Rules and Regulations Section 6.14. (Marshall/Becker: 5-0)

D. 2030 - 23rd St.

R001-58A

The tenant's petition alleging substantially decreased housing services due to serious habitability problems in the unit was granted, in part, and the landlord was found liable to the tenant in the amount of \$6,533.75. On appeal, the landlord claims that he failed to attend the properly noticed hearing because he did not receive notice, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Palma: 5-0)

V. Old Business

A. Proposed Procedural Changes

Senior Hearing Officer Sandra Gartzman followed up on her appearance at the May 20, 1997 Board meeting concerning several proposals advanced by staff in order to expedite the processing and adjudication of petitions. Regarding proposed regulations allowing for the dismissal of operating and maintenance and comparables petitions which are defective and/or incomplete due to inadequate documentation or some other problem, the Board voted as follows:

MSC: To put the proposed regulations pertaining to administrative dismissal of certain landlord petitions out for Public Hearing on July 1, 1997, with a change to make it clear that such

dismissals, as well as dismissals of capital improvement petitions pursuant to Rules and Regulations Section 7.17, will be without prejudice to re-filing. (Gruber/Lightner: 5-0)

Regarding the possibility of offering the public the option of "Minute Orders" instead of full decisions, the Commissioners expressed their support for a 6-month Pilot Program with monthly reports to be brought back to the Board. Informational materials will be developed and provided to the Commissioners at the July 1st meeting. There was no support expressed for the concept of an independent appraiser that could be used by the Board for comparables petitions.

B. 2714 Webster St. (Q001-55A) (heard May 20, 1997)

The Board discussed this case, which was the subject of an appeal hearing at the meeting on May 20th, in light of a Memorandum from the Deputy Director outlining possible approaches to resolution. The following motion was passed:

MSC: To find that the landlord is not liable to the tenant for the amount of \$3,025.20, which is the remainder after sums owing from each party to the other are offset, due to laches and other equitable considerations. (Gruber/Lightner: 3-2; Becker, Palma dissenting)

C. 1077 - 1081 Ashbury/1038 Clayton (R001-80R thru -84R)  
(heard May 6, 1997)

The Board discussed this case, which concerned allowable increases under the RAP Program, in light of a Post-Hearing Submission from the tenants' attorney. The Commissioners went through the file and verified which of the invoices and receipts for rehabilitation work on the building constituted "maintenance" and which was more in the nature of capital improvement. Prior to their discussion, the Commissioners passed the following motion:

MSC: To recuse Commissioner Murphy from consideration of this matter. (Murphy/Lightner: 5-0)

As Commissioner Becker was not present at the subject appeal hearing, he went off the record during the discussion.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. A copy of the Notice of Entry of Judgment Denying Petition for Writ of Mandamus in the case of Susoeff v. Rent Board (Superior Court Case No. 984130).

B. A letter from Deputy City Attorney Mark Barmore to Attorney Clifford Fried regarding the case of Larsen v. Rent Board (Superior Court No. 979-777).

C. Two "Daily Journal" articles regarding several recent court cases on the issue of regulatory "takings."

D. A letter from Executive Director Joe Grubb to Al Goodwin of Rent Board Petition Associates regarding on-going problems with petitions filed by Mr. Goodwin.

E. A report on useage of the City's Web sites for the month of May.

VII. Director's Report

Executive Director Grubb reported as follows:

A. It is now possible to download the Ordinance and Rules and Regulations in their entirety through the Internet.

B. The Chinese version of the Info-To-Go voicemail information line is now on-line; the Spanish version will, hopefully, be available next week.

C. The Board has the use of the Mayor's Box for a Giant's doubleheader on July 27th.

VIII. Calendar Items

June 17, 1997

5 appeal considerations

Old Business:

Proposed Procedural Changes: Minute Orders

June 24, 1997 - NO MEETING

IX. Adjournment

President Lightner adjourned the meeting at 8:25 p.m.



SF

R52

#1

6/17/97

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Residential Rent Stabilization  
and Arbitration Board

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,  
June 17, 1997  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

JUN 13 1997  
SAN FRANCISCO  
PUBLIC LIBRARY  
fax copy  
1st Posted  
6/16/97

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 450 - 14th St. #A

R001-59A

The landlord appeals the decision granting rent reductions due to decreased housing services.

B. 376 San Carlos

R001-61A

The landlord appeals the decision partially granting claims of decreased housing services.

C. 165 Germania St.

R002-22R

The tenant appeals the decision granting certification of capital improvement costs and a rent increase based on increased operating expenses on the grounds of financial hardship.

D. 424 Laurel St.

R001-60A

The landlord appeals the denial of his petition for rent increases based on increased operating expenses.

E. 2109 Pine St.

R001-62A

The landlord of a Newly Covered Unit under Proposition I appeals the decision on his comparables claim based on the past rent history of the unit.

VI. Communications

- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, June 17, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

JUL 07 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER President Lightner called the meeting to order at 6:10 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Marshall;  
Mosser; Palma; Wasserman.

Commissioners not Present:

Murphy.

Staff Present:

Grubb; Wolf.

Commissioner Moore appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 10, 1997.

(Palma/Marshall: 5-0)

IV. Consideration of Appeals

A. 450A - 14th St.

R001-59A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$4,765.00 due to serious habitability defects on the premises. On appeal, the landlord alleges that the hearing officer exhibited bias toward him; that the tenant failed to notify him regarding the problems in the unit; that the tenant's complaints were retaliatory, in that they immediately followed a notice of rent increase and 3-Day Notice to Pay Rent or Quit; that it is unduly burdensome and unfair to expect landlords of Newly Covered Units under Proposition I to have kept complete repair records for a period prior to jurisdiction; that the evidence he submitted regarding repairs that were effectuated was completely ignored by the hearing officer; that since the tenant exercised the repair-and-deduct remedy on several occasions, the landlord had in effect already paid for the work; that the tenant failed to provide access to the unit in order for repairs to be effectuated; that the drainage and flooding problems were of extremely limited duration; and that all of the conditions were abated prior to the date of the hearing.

MSC: To accept the appeal and remand the case to the hearing officer only to determine the dates that the conditions were abated and the rent reductions should cease; and to correct the dates specified for the problem regarding the kitchen sink. A hearing will be held only if necessary, at the discretion of the hearing officer. The appeal is denied as to all other issues. (Becker/Palma: 5-0)

B. 376 San Carlos

R001-61A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$370.00. On appeal, the landlord asserts that: the tenant is not being truthful regarding the conditions in the unit; the tenant has additional occupants in the unit, resulting in extremely high water bills; and the tenant is behind in her rent.

MSC: To deny the appeal. (Palma/Becker: 5-0)

C. 165 Germania St. #165

R002-22R

The landlord's petition for rent increases based on increased operating expenses and certification of capital improvement costs was granted for the tenants in two units. One tenant appeals the decision on the basis of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 4-1; Lightner dissenting)

D. 424 Laurel St.

R001-60A

The landlords' petition for rent increases based on increased operating expenses was denied because increases were in the categories of debt service and property taxes, and these owners had already received 7% base rent increases based on their acquisition of the building; and the landlords failed to adequately document claimed increased repair costs. On appeal, the landlords maintain that: the evidence provided should have been considered adequate and, if an opportunity had been provided, additional documentation could have been provided; the painting contractor's failure to provide an invoice for the work is standard within the trade; the replacement stove and water heater were deemed to constitute capital improvement but are more properly considered operating expenses; and the operating expenses on the property have increased 54% over the comparison year and 100% over the base year.

MSC: To accept the appeal and remand the case for a hearing before a new hearing officer with the following instructions to the landlord: documentation of the scope of work performed and sums expended shall be provided to the extent possible and, where there is not both an invoice and canceled check, an

explanation shall be supplied; if the landlord requires additional time to procure documentation, he shall contact the Scheduling Coordinator immediately and the case will be taken off calendar until the landlord indicates that the petition is ready to go forward. (Lightner/Palma: 5-0)

E. 2109 Pine St.

R001-62A

The landlords' petition for a 15.2% increase for this Newly Covered Unit under Proposition I was denied because the landlords failed to establish that no rent increases had been given prior to their purchase of the building on October 1, 1990. A rent increase in the amount of 7.2% was, however, granted. On appeal, the landlords allege that they were unaware that they would need to document the rent history for a period of time prior to their ownership, and request that they be allowed to do so now.

MSC: To accept the appeal and remand the case for a new hearing. In the Decision on Remand, the hearing officer shall make a Finding as to whether this is an ongoing tenancy. (Marshall/Lightner: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The Mediation Statistics and Summary of Mediation Agreements for the month of May, 1997. Commissioners Becker and Marshall inquired as to a mediated agreement wherein the tenant agreed to vacate the unit without compensation. Staff will report back on the circumstances surrounding this case.

B. Notice of Public Hearing for 6:00 p.m. on July 1, 1997: the Board will take public comment on proposed regulations providing for administrative dismissal of certain landlord petitions.

C. The Order Denying Supplemental Petition for Writ of Administrative Mandamus in the case of Hudson and Boesch v. S.F. Rent Board (Superior Court Case No. 965026 - 99 Jersey).

#### VI. Director's Report

Executive Director Grubb reported that the budget for Fiscal Year '97 - '98 was approved by the Board of Supervisors. The budget provides for one additional counselor (already on staff) and an additional Hearing Officer. The hiring of the new Hearing Officer will be held in abeyance pending the office remodeling, hopefully by November.

#### VII. New Business

The Commissioners were informed that City-wide recycling now includes colored paper. The Director asked that the Commissioners come to the next meeting with information regarding the number of tickets they would like to the Giants Doubleheader in the Mayor's Box on July 27th.

VIII. Calendar Items

June 24, 1997 - NO MEETING

July 1, 1997

6:00 1 appeal consideration  
Public Hearing: Proposed Administrative Dismissal Regulations  
Executive Session: Personnel Issues

IX. Adjournment

President Lightner adjourned the meeting at 7:40 p.m.



WILLIE L. BROWN, JR.

MAYOR

June 17, 1997

MERRIE T. LIGHTNER  
PRESIDENTJOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENTNOTICE OF PUBLIC HEARING

DOCUMENTS DEPT.

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

DATE: July 1, 1997

JUL 1 0 1997

TIME: 6:00 P.M.

SAN FRANCISCO  
PUBLIC LIBRARYPLACE: 25 VAN NESS AVENUE (AT MARKET ST.)  
SUITE 70, LOWER LEVEL  
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE ON THE ISSUE(S) BELOW:

## SECTION 5.14

This amendment is entirely new and would permit the department to dismiss without prejudice to re-file those operating and maintenance or comparable petitions that have not been properly documented and/or where requested information has not been provided. Petitioners would be sent a written notice explaining the applicable reasons for the proposed dismissal and given 30 days to cure the defects in the petition. The petitioner would be entitled to re-file the petition at a later time should the petition be dismissed.

## SECTION 7.17

This section currently permits the department to dismiss those capital improvement petitions that are incomplete and the requested information has not been provided within 30 days of written notification. This amendment will allow the petition to be dismissed without prejudice and enable the petitioner to re-file at a later time.



1 PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS  
2 Public Hearing on these amendments will be held on  
3 July 1, 1997 at 6:00 p.m.

4 [NOTE: THIS ENTIRE SECTION IS NEW]

5 Section 5.14 Administrative Dismissal

6 Notwithstanding the acceptance of a petition, if any of the following conditions exist, the Board  
7 shall dismiss the landlord's petition for arbitration without prejudice and shall not  
8 schedule a hearing. Prior to dismissal of a petition, the Board shall mail to the petitioner  
9 a written notice of intention to dismiss stating the applicable reason(s) for such  
10 dismissal. The petitioner shall have thirty (30) days from the date of mailing of the  
11 notice to cure the defects in the petition prior to dismissal.

12 (a) Operating and Maintenance Expense Petitions

13 (1) Where all required pages of the petition have not been submitted or filled out  
14 properly;

15 (2) Where the documents submitted are not clearly divided into two groups, one  
16 representing the Year 1 documents and one representing the Year 2 documents;

17 (3) Where the documents within each year are not grouped together according to the  
18 categories listed in the landlord petition form;

19 (4) Where the documents submitted do not clearly show the time period covered  
20 and/or the expense being claimed and no written explanation of the missing information is  
21 provided with the documentation;

22 (5) Where necessary documents are missing and there is no written explanation of  
23 what attempts were made to obtain the missing documents and why the documents could not be  
24 submitted;

25 (6) Where the petitioner submits complete documentation for only one or two  
26 categories to the exclusion of the other categories;  
27  
28



1 (7) Where the total amounts claimed for each category in each year do not correspond  
2 to the evidence submitted.

3 (b) Comparable Rent Petitions

4  
5 (1) Where all required pages of the petition have not been submitted or filled out  
6 properly;

7 (2) Where an adequate explanation of the situation justifying the petition (e.g.  
8 extraordinary circumstances) is not provided;

9 (3) Where evidence establishing that the rent for the unit is significantly below those of  
10 comparable units in the same general area is not provided;

11 (4) Where evidence of reasonably "comparable" units is not provided (i.e., length of  
12 occupancy of the current tenant, size and physical condition of the unit and building, and services  
13 paid by the tenant).

14  
15 New text in the following section is underlined and bold

16 Section 7.17  
17 (Added March 14, 1989)

18 Notwithstanding the acceptance of a petition, if any of the following conditions exist, the  
19 Board shall dismiss the petition without prejudice and shall not schedule a hearing. Prior to  
20 dismissal of a petition, the Board shall mail to the petitioner a written notice of intention to dismiss  
21 stating the applicable reason(s) for such dismissal. The petitioner shall have thirty (30) days from  
22 the date of mailing of the notice to cure the defects in the petition prior to dismissal.

23 (a) Where the petition submitted fails to clearly itemize costs according to specific  
24 improvements categorized by type of improvement; e.g., foundation work, new roof, electrical  
25 service, electrical wiring, fire sprinkler system, etc.;

(b) Where the petition submitted for improvements to more than one building does not clearly allocate costs to each building;

(c) Where the petition submitted for improvements to a building with more than one unit fails to clearly distinguish costs of common area improvements from costs of improvements to specific units;

(d) Where the documentation submitted in support of the petition (i.e., bills, canceled checks, etc.) is not clearly marked so as to identify the specific improvement to which it relates;

(e) Where insufficient copies of the petition or supporting documentation have been submitted pursuant to 7.10(b)(1) and 7.10(b)(2) above.

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City and County of San Francisco



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7/1/97

Residential Rent Stabilization  
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, 6:00 p.m.,

July 1, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

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LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 731 - 47th Ave. #2

R001-63A

The landlord alleges that he failed to appear at the hearing on his capital improvement petition because he did not receive the Notice of Hearing.

- VI. Public Hearing
  - 6:00 Proposed Rules and Regulations Allowing for Administrative Dismissal of Certain Landlord Petitions (new Section 5.14) and Amending Section 7.17 to Allow for Administrative Dismissal of Capital Improvement Petitions to be Without Prejudice to Re-Filing
- VII. Communications
- VIII. Director's Report
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Executive Session
  - Personnel Matters
  - Government Code Section 54957
- XII. Calendar Items
- XIII. Adjournment



## ACCESSIBLE MEETING POLICY

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(2/97) lk/comm/accmtg

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, July 1, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

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I. Call to Order

LARRY BEACH BECKER President Lightner called the meeting to order at 6:08 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER||.

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

Roll Call

Commissioners Present:

Bierly; Gruber; Lightner; Marshall; Mosser;  
Palma; Wasserman.

Commissioners not Present:

Becker; Moore; Murphy  
Grubb.

Staff Present:

III. Approval of the Minutes

MSC: To approve the Minutes of June 17, 1997 with an amendment  
noting that Commissioner Palma had made the motion  
concerning 424 Laurel St. and Commissioner Lightner  
seconding the motion.  
(Palma/Lightner: 4-0)

IV. Remarks from the Public

Robert Pender informed the Commission that the Tenants Convention would be  
held next month.

V. Consideration of Appeal

A. 731 - 47th Ave. #2

R001-63A

The landlord failed to appear for the properly noticed hearing on his petition for  
certification of capital improvement costs. On appeal, the landlord alleges that  
he failed to receive notice, and attaches the requisite Declaration of Non-  
Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Palma/Lightner: 4-0)

VI. Public Hearing



The Commission took public testimony on proposed amendments to the Rules and Regulations, sections 5.14 and 7.17, to allow for Administrative Dismissal of capital improvement and certain landlord petitions without prejudice to re-filing. Bob Pender spoke favorably about the proposal making the Rent Board operation more efficient.

After closing public testimony, the Commission discussed some proposed amendments to the language by President Lightner to: clarify a petitioner's right to appeal an administrative dismissal; and, to clarify that only that portion of a rent increase notice based on an administratively dismissed petition would have to be re-noticed if the petition was filed at a later date and that all other portions of the rent increase notice would remain in effect.

MSC: To continue the matter to the July 15, 1997 meeting to permit staff to draft appropriate language. (Marshall/Lightner 4-0)

#### VII. Communications

The Commissioners received the following communications:

A. Monthly statistics for April and May 1997.

B. Proposed legislation from President Lightner concerning the obligations and rights of master tenants and sub-tenants.

#### VIII. Director's Report

Executive Director Grubb wished everyone a happy Fiscal New Year.

#### IX. Old Business

Senior Hearing Officer Sandy Gartzman reported to the Commissioners that staff had been discussing the matter of Minute Orders and found that it was going to be a more complicated matter than first thought. It was estimated that it would be three to four months before a pilot program could be brought back to the Commissioners for their consideration.

#### X. Executive Session

Pursuant to Government Code Section 54957, the Board went into Executive Session from 6:36 p.m. to 6:52 p.m. to discuss personnel matters.

#### XI. Calendar Items

July 15, 1997

9 appeal considerations

Old Business: Public Hearing from July 1, 1997 continued for discussion



New Business: Proposed legislation concerning master tenants and sub-tenants

July 29, 1997 - NO MEETING

XII. Adjournment

President Lightner adjourned the meeting at 7:01 p.m.



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**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

7/15/97

Tuesday, 6:00 p.m.,

July 15, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

**AGENDA**

I. Call to Order

LARRY BEACH BECKER

II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

III. Approval of the Minutes

IV. Remarks from the Public

V. Executive Session

Litigation: Government Code Section 54956.9(a)  
Larsen v. Rent Board (Superior Court Case No. 979777)

VI. Consideration of Appeals

A. 2663 Greenwich St. R001-64A

The landlord appeals the determination that a new stove did not constitute a capital improvement.

B. 685 Fell St. R002-23R

The tenant appeals the determination on remand that the landlord, a non-profit corporation, was not in violation of Ordinance Section 37.3(c).

C. 495 - 3rd Ave. R001-66A

The landlord appeals the Hearing Officer's application of Rules and Regulations Section 7.12(b) (the "6-Month Rule").

D. 571 Lombard St. R001-67A

The landlord appeals the decision denying his Petition for Extension of Time.

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posted 7/15/97

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E. 1390 Pine St.

R001-65A & R002-24R

The landlord appeals the application of the "6-Month Rule" to his request for certification of the costs of seismic and electrical work; one tenant appeals the decision on the basis of financial hardship.

F. 1620 Grove St.

R001-68A

The landlord appeals the hearing officer's determination that the occupant of the unit is an "original tenant" pursuant to Rules and Regulations Section 6.14.

G. 3246 Anza St.

R001-69A

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

H. 152 Onondaga Ave.

R002-25R

The tenant appeals the dismissal of his petition alleging decreased housing services due to his late arrival at the hearing.

VII. Communications

VIII. Director's Report

IX. Old Business

A. Public Hearing Discussion on Sections 5.14 and 7.17 from July 1, 1997

IV. Remarks from the Public (cont.)

X. New Business

A. Proposed Legislation Concerning Master Tenants and Sub-tenants

XI. Calendar Items

XII. Adjournment

# Proposed Legislation to Clarify the Obligations and Rights of Master Tenants & Sub-Tenants

## Purpose:

The San Francisco Rent Control Ordinance, merely states that a if a tenant sub-leases or assigns their UNIT, that the rent charged may not be more than that paid to the landlord. While this certainly suggests the legislative intent of how sub-tenants who rent a portion of the unit should be treated, no where in the Ordinance or the Rules are the issues of sub-tenancy clearly set forth. As the need for affordable housing increases in San Francisco and more tenants are sub-leasing, a clear set of guidelines needs to be developed for sub-tenants. Many sub-tenants are paying more than their proportional share of the cost of an apartment unit, thereby increasing the cost of housing to those who are new in the City. More sub-leases will become more affordable with the addition of Section 6.15.

## **ADD SECTION 1.21 MASTER TENANT**

A master tenant is any tenant who sub-lets and/or assigns all, or any portion, of a rental unit to another tenant and who is entitled to receive any form of rent or contribution towards rent.

## **ADD SECTION 6.15 SUBLETTING & ASSIGNMENT**

### **(a) Initial Rent:**

- (1) Whenever a tenant sub-leases or assigns the entirety of the apartment unit, the master tenant may not charge more to the sub-tenant(s) upon initial occupancy than that rent which is currently being charged and paid to the landlord.
- (2) Whenever a master tenant sub-leases or assigns a portion of the apartment unit, the master tenant may not charge more to the sub-tenant(s) upon the initial occupancy than that proportional share of the rent which is being charged and paid to the landlord which is attributable to any exclusive use area leased to the sub-tenant, plus a reasonable pro-rata share of the common area space of the apartment unit that the sub-tenant has a right to utilize. In no event shall a master tenant charge amount(s) that exceeds the amount that accounts for the space occupied or shared by sub-tenant(s). (By way of example, in a two bedroom unit occupied by a master tenant and two sub-tenants, the master tenant may not charge more than 50% of the rent charged by and paid to the landlord, unless the exclusive use area of the apartment unit and pro-rata share of common area as occupied by the sub-tenants is larger than the combined areas of the unit as occupied by the master-tenant.)
- (3) Nothing herein shall be construed to affect any rental agreement that prohibits sub-letting or assignment or to require any landlord to approve of a sub-let or assignment.

### **(b) Disclosure of Rental Rate:**

A master tenant, upon written request from the landlord, shall provide copies of all rental documents and/or agreement between the master tenant and sub-tenant(s) or a written summary of the agreement if it is oral, including reasonable evidence of the rental rate being charged and paid by any sub-tenant(s). The master tenant shall be obligated to comply with the request no more than twice in any calendar year. Failure to comply shall be a breach of the rental agreement.

### **(c) Allowable Rental Increases**

A master tenant shall comply with all provisions of the Ordinance and Rules applicable to rental increases. Any increase in violation of the Ordinance and Rules is null and void.



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(2/97) lk/comm/accmtg





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

Tuesday, July 15, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

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MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

I. Call to Order

LARRY BEACH BECKER Vice-President Wasserman called the meeting to order at 6:05 p.m.

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

II. Roll Call

Commissioners Present: Becker; Bierly; Marshall; Mosser; Palma;  
Wasserman.

Commissioners not Present: Lightner; Moore.

Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:10 p.m.; Commissioner  
Murphy arrived at 6:21 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 1, 1997 with the following  
correction: the date for the Tenants' Convention is September  
13, 1997, and not next month. (Palma/Mosser: 4-0)

IV. Closed Session

The Deputy Director informed the Board that the scheduled Closed Session  
with Deputy City Attorneys Teresa Stricker-Croley and Mark Barmore to discuss  
the case of Larsen v. S.F. Rent Board (Superior Court Case No. 979777) was  
continued to the Board meeting of August 5, 1997.

V. Consideration of Appeals

A. 2663 Greenwich St.

R001-64A

The landlord's petition for certification of capital improvement costs was  
granted, in part. The cost of a new stove was held to be an operating expense  
because the landlord failed to prove that the tenants had agreed, prior to  
installation, to amortization of the cost of the stove as a capital improvement. On  
appeal, the landlord asserts that: since the kitchen had been remodeled over  
time, and the tenant asked that the old stove be replaced, an "agreement"  
existed between the parties sufficient to satisfy the requirements of Rules and  
Regulations Section 7.12(b).

MSC: To accept the appeal and remand the case to determine whether there was an agreement between the parties that the cost of the new stove would be amortized as a capital improvement. A hearing will be held only if necessary. (Marshall/Becker: 5-0)

B. 685 Fell St.

R002-23R

Four tenant petitions alleging substantial decreases in housing services were granted. Innovative Housing, a non-profit corporation, was also found liable to two tenants for rent overpayments due to charging more rent than was being paid to the owner of the property in violation of Ordinance Section 37.3(c). Upon appeal, the Board remanded the case to overturn that portion of the decision determining rent overpayments because Innovative Housing is not a person and does not meet the definition of "tenant" in the Ordinance. Therefore, Section 37.3(c) is inapplicable. One tenant appeals the remand decision claiming that she thought a \$35.00 monthly "management fee" was a "one-time filing fee", and that she does not use the services allegedly provided in exchange for the fee.

MSC: To recuse Commissioner Marshall from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To recuse Commissioner Becker from consideration of this appeal. (Murphy/Gruber: 5-0)

MSC: To deny the appeal. (Bierly/Gruber: 4-0)

C. 495 - 3rd Ave.

R001-66A

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted, in part. The costs for certain items of capital improvement work were disallowed for the tenants in some units due to the work having been completed prior to or within six months of the inception of the tenancies. On appeal, the landlord contends that the "6-Month Rule" (Rules and Regulations Section 7.12[b]) is inapplicable because there was a change in ownership during the relevant time period, although the work was completed and paid for by the prior owner.

MSC: To deny the appeal. (Marshall/Palma: 5-0)

D. 571 Lombard St.

R001-67A

The landlord's Petition for Extension of Time to Complete Capital Improvement Work was denied because the hearing officer found that the landlord failed to obtain all necessary permits prior to issuing the notices to vacate. (Rules and Regulations Section 12.15[e][1]) On appeal, the landlord's attorney asserts that the petition was denied on grounds not raised at the hearing by any party and

that the grounds for denial pertain to the landlord's right to temporarily evict the tenants for capital improvement work, and not to the request for additional time to complete the work.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

E. 1390 Pine St.

R001-65A & R002-24R

The landlord's petition for certification of the costs of seismic and electrical work to the tenants in eleven units was granted, in part. Certification was denied as to the tenants in four units because the hearing officer determined that the work commenced when a structural engineer began performing the necessary engineering services for the seismic improvements, and these tenants' move-in dates triggered application of Rules and Regulations Section 7.12(b) (the "6-Month Rule"). The tenant in one unit appeals the decision on the grounds of financial hardship. The landlord appeals the denial of certification of the costs to the tenants in four units, alleging that the "6-Month Rule" is inapplicable, because physical commencement of the seismic work did not occur until a much later date.

MSC: Regarding the hardship appeal filed by the tenant in unit #302: Pursuant to the landlord's statement in his response to the tenant's appeal that he has no objection to a one-year deferral of imposition of the approved passthrough, the effective date for the passthrough shall be February 21, 1998.  
(Becker/Palma: 5-0)

MSF: To deny the landlord's appeal. (Becker/Marshall: 2-3; Gruber, Murphy, Palma dissenting)

MSC: To accept the landlord's appeal and remand the case to find that the "6-Month Rule" applies only to the structural engineering costs in the amounts of \$700.00 and \$2,750.00, and not to the remainder of the costs of the seismic work.  
(Murphy/Gruber: 3-2; Becker, Marshall dissenting)

F. 1620 Grove St.

R001-68A

The landlord's petition for a rent increase based on increased operating expenses was granted. The portion of the landlord's petition that requested a determination that none of the present occupants of the unit are "tenants" subject to the jurisdiction of the Rent Ordinance was denied, because the landlord knew of the presence of at least one of the current occupants in the unit and failed to avail himself of the procedures outlined in Rules and Regulations Section 6.14. On appeal, the landlord asserts that Section 6.14 of the Rules was intended to apply only to unrelated adults who become roommates, and not to "family situations."

MSC: To deny the appeal. (Marshall/Palma: 5-0)

G. 3246 Anza St.

R001-69A

The tenants' petition alleging substantial decreases in housing services and the landlord's failure to repair was denied except for a \$25.00 per month rent reduction due to inadequate hot water on the premises. On appeal, the landlord claims that the decision is based only on the tenants' unverified statement regarding the condition of the water heater; and that the hearing officer should have examined the underlying causes of the complaint.

MSC: To deny the appeal except to remand the case to the hearing officer in order to make two necessary Technical Corrections to the Decision. (Becker/Palma: 3-2; Gruber, Murphy dissenting)

H. 152 Onondaga Ave.

R002-25R

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he thought that the hearing was scheduled for 9:30 a.m. instead of 9:00 a.m.; that he was unemployed and didn't have the necessary funds to arrive at the hearing any sooner; and that he will be starting a new job, which will eliminate this problem. As correspondence from the landlord contained the assertion that a Judgment had been entered in an Unlawful Detainer case that he brought against the tenant, and an eviction was scheduled to have taken place on July 9, 1997, it was the consensus of the Board to continue this matter in order for staff to ascertain whether or not the tenant remained on the premises.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The appeal decision for the case concerning 1077 - 1081 Ashbury Street/1038 & 1042 Clayton Street (Q007-07T through -11T), heard and decided by the Board on May 6, 1997, which was approved with minor changes suggested by Commissioner Marshall and signed by Vice-President Wasserman.

B. A letter to Board President Lightner from Attorney Olivia Paniagua concerning the issue of eviction without just cause by "Master Tenants."

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that the Spanish version of "Information To Go", the Board's automated voice mail information system, is now on line.

#### VIII. Old Business



At the July 1, 1997 Board meeting, a Public Hearing was held on proposed new Rules and Regulations Section 5.14, which would allow for Administrative Dismissal of certain landlord petitions without prejudice to re-filing; and amendments to Rules Section 7.17 regarding procedures for Administrative Dismissal of capital improvement petitions. At that time, the Commissioners asked Senior Hearing Officer Sandra Gartzman to draft amendments to the proposed language which would: clarify a petitioner's right to appeal an Administrative Dismissal; and clarify that only that portion of a rent increase notice based on an administratively dismissed petition would have to be re-noticed if the petition was re-filed at a later date, but that all other portions of the rent increase notice would remain in effect. After reviewing the proposed amendments, the Board passed the following motion:

MSC: To adopt proposed new Rules and Regulations Section 5.14 and proposed amendments to Rules Section 7.17, allowing for and clarifying procedures for Administrative Dismissal of certain landlord petitions. (Marshall/Palma: 5-0)

IX. Remarks from the Public

Attorney Olivia Paniagua informed the Board that she is representing a tenant in an eviction action who is being evicted by a "Master Tenant." According to Ms. Paniagua, the tenant in this case thought that the co-occupants of the unit were roommates, and did not realize that he could be evicted without just cause by the "Master Tenant." She asked that the Board consider requiring disclosure of this exemption from the just cause eviction requirements of the Ordinance at the inception of such tenancies.

X. New Business

The scheduled discussion of proposed legislation concerning Master Tenants and Subtenants was continued due to the absence of Commissioner Lightner.

XI. Calendar Items

July 22 & 29, 1997 - NO MEETINGS

August 5, 1997

7 appeal considerations (1 cont. from 7/15/97)

Closed Session: Litigation

New Business: Proposed Legislation Concerning Master Tenants & Subtenants

XII. Adjournment

Vice-President Wasserman adjourned the meeting at 7:40 p.m.



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(2/97) lk/comm/acccmtg





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NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

8/5/97

Tuesday, 6:00 p.m.,

August 5, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

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LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public on Items On or Off the Agenda
- V. Vote on Whether to Go Into Closed Session Regarding the  
Case of Larsen v. Rent Board (Superior Court Case No. 979777)  
(Pursuant to S.F. Administrative Code Section 67.11[a])
- VI. Closed Session re Larsen, supra  
(Pursuant to Government Code Section 54956.9[a])
- VII. Vote on Whether or Not to Disclose and Possible Disclosure of  
Any/All Conversations Held in Closed Session Regarding Larsen,  
supra (Pursuant to S.F. Administrative Code Section 67.11[a])
- VIII. Report on Any Actions Taken in Closed Session Regarding Larsen,  
supra (Pursuant to Government Code Section 54957.1[a][2] and  
S.F. Administrative Code Section 67.14[b][2])
- IX. Consideration of Appeals

A. 152 Onondaga Ave. R002-25R  
(cont. from 7/15/97)

The tenant appeals the dismissal of his petition alleging decreased  
housing services due to his late arrival for the hearing.

B. 469 Ivy St. R001-70A

The landlord appeals the decision granting rent reductions based  
on substantial decreases in housing services.

C. 2844 Lyon St. R001-71A

The landlord appeals the decision granting rent reductions due to decreased housing services.

D. 860 Arguello St. #102 R001-72A

The landlord appeals a decision determining rent overpayments due to an arithmetic error in the calculation of allowable "banking."

E. 1217 Kearny St., Apt. D S001-01R

One tenant appeals the decision granting certification of capital improvement costs.

F. 1011 Union St. #4 S001-02R

One tenant appeals the decision granting rent increases based on increased operating expenses.

G. 1649 Washington St. S001-01A

The landlord appeals the decision determining rent overpayments pursuant to Rules and Regulations Section 6.14.

- X. Communications
- XI. Director's Report
- XII. Old Business
- IV. Remarks from the Public (cont.)
- XIII. New Business
  - Proposed Legislation Concerning Master Tenants and Subtenants
- XIV. Calendar Items
- XV. Adjournment



**MINUTES OF THE REGULAR MEETING OF WILLIE L. BROWN, JR.  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD** MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

Tuesday, August 5, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

AUG 10 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

President Lightner called the meeting to order at 6:13 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Lightner; Mosser; Palma;  
Wasserman.  
Commissioners not Present: Gruber; Marshall; Moore.  
Staff Present: Grubb; Gartzman.

Commissioner Murphy appeared on the record at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 15, 1997.  
(Becker/Bierly: 5-0)

IV. Remarks from the Public

Robert Pender, a tenant at Parkmerced, informed the Board that he read a newspaper article indicating that Parkmerced is going to be sold. Shortly afterwards, he received a letter from the management company restricting tenants' use of patios, gardens and outdoor water.

V. Vote on Whether to Go Into Closed Session Regarding Case of Larsen v. Rent Board (Superior Court Case No. 979777) Pursuant to S.F. Administrative Code Section 67.11(a)

MSC: To go into closed session.  
(Mosser/Lightner: 5-0)

VI. Closed Session re: Larsen, supra. Pursuant to Government Code Section 54956.9(a)

The Board went into closed session from 6:20 p.m. to 7:20 p.m. with City Attorneys Teresa Stricker-Croley and Mark Barmore to discuss the case of Larsen v. Rent Board (Superior Court Case No. 979777).



VII. Vote on Whether or Not to Disclose and Possible Disclosure of Any/All Conversations Held in Closed Session Regarding Larsen, supra, Pursuant to S.F. Administrative Code Section 67.11(a)

MSC: To accept the recommendation of the City Attorney not to disclose conversations held in closed session regarding Larsen, supra, to the extent that such conversations are protected by the attorney/client privilege. (Becker/Bierly: 5-0)

VIII. Report on Any Actions Taken in Closed Session Regarding Larsen, supra Pursuant to Government Code Section 54957.1(a)(2) and S.F. Administrative Code Section 67.14(b)(2)

MSC: To instruct the City Attorney not to appeal the Larsen decision; the Board will continue to interpret and enforce the Ordinance and Rules and Regulations in a manner consistent with prior Board rulings. (Becker/Palma: 3-2; Lightner, Mosser dissenting)

IX. Consideration of Appeals

A. 152 Onondaga Ave.

R002-25R  
(cont. from 7/15/97)

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claimed that he thought that the hearing was scheduled for 9:30 a.m. instead of 9:00 a.m.; that he was unemployed and didn't have the necessary funds to arrive at the hearing any sooner; and that he will be starting a new job, which will eliminate this problem. As correspondence from the landlord contained the assertion that a Judgment had been entered in an Unlawful Detainer case that he brought against the tenant, and an eviction was scheduled to have taken place on July 9, 1997, it was the consensus of the Board to continue this matter in order for staff to ascertain whether or not the tenant remained on the premises.

MSC: To deny the appeal. (Becker/Mosser: 5-0)

B. 469 Ivy St.

R001-70A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$3,060.00 due to serious habitability defects on the premises. The landlord failed to appear at the hearing and alleges on appeal that the Notice of Hearing was sent to an incorrect address.

MSC: To deny the appeal. (Becker/Bierly: 5-0)





C. 2844 Lyon St.

R001-71A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,745.00 due to serious habitability defects on the premises. The landlord failed to appear at the hearing and maintains on appeal that the Notice of Hearing was sent to an incorrect address. Additionally, the landlord claims that a \$100.00 per month rent reduction due to lack of heat is excessive because the heat is defective but operative; that the common area lighting problem was corrected immediately after notice; that the cracked and broken windows are the fault of the tenant; that the tenant painted the unit with the wrong paint, which created peeling; that there is mildew in the unit due to the tenant's failure to ventilate; and that the tenant's filing of the petition was not in good faith but was in retaliation for the landlord's service of a 3-Day Notice to Pay Rent or Quit. As the landlord informed the Director that she would be sending the Board a copy of her Declaration of Non-Receipt of Notice, which she believed her attorney had already mailed to the Board, it was the consensus of the Board to continue this matter until the next Board meeting on August 19, 1997.

D. 860 Arguello St. #102

R001-72A

The tenant's petition for a rent reduction due to an inoperable intercom system was denied because the hearing officer found that the landlord effectuated the repair within a reasonable amount of time and the system was not inoperable. However, the landlord was found liable to the tenant in the amount of \$506.80 due to rent overpayments. On appeal, the landlord maintains that the hearing officer exceeded her authority because the tenant failed to assert a claim of unlawful rent increase in her petition; that the rent increase at issue had not been noticed or taken effect at the time of filing the petition; the overcharges were due to an inadvertent mathematical error in the calculation of allowable "banking"; and that fairness dictates that the landlord not be penalized because of the length of time it took for the petition to be processed and a decision rendered.

MSC: To deny the appeal. (Becker/Palma: 5-0)

E. 1217 Kearny St., Apt. D

S001-01R

The landlords' petition for certification of the costs of a new roof, stairway and exterior painting was approved for the tenants in three units of a five-unit building. One tenant appeals the decision, asserting that: the landlord did not obtain required permits for the work; and the allocation of the costs of the work on a square footage basis is inequitable because the tenant no longer has exclusive use of the garage, a reduction of 325 square feet.

MSC: To deny the appeal. (Palma/Mosser: 5-0)



F. 1011 Union St. #4

S001-02R

The landlord's petition for rent increases based on increased operating and maintenance expenses to the tenants of four units in a six-unit building was granted. One tenant appeals the decision, claiming that tenants in two out of the four units have moved, entitling the landlord to rent increases due to vacancy decontrol. The tenant maintains that the landlord no longer needs the rent increase approved for his unit.

MSC: To deny the appeal. (Becker/Mosser: 5-0)

G. 1649 Washington St.

S001-01A

The tenant's petition alleging an unlawful rent increase was granted, in part. The hearing officer found that the landlord was not entitled to the increase pursuant to the provisions of Rules and Regulations Section 6.14 because an "original tenant" still remained on the premises, and a proper 30-day notice of rent increase had not been issued. On appeal, the landlord claims that notice of the rent increase was given in the new lease that was signed by the tenant-petitioner; and that the petitioner's name was written on the lease so she would have the status of Master Tenant for dealing with problems with the unit and co-occupants of the unit.

MSC: To deny the appeal. (Becker/Bierly: 5-0)

X. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The appeal decision for the case concerning 2714 Webster Street (Q001-55A), heard on May 20, 1997 and decided on June 10, 1997, which was approved and signed by President Lightner.

B. Letters from Delma Churchwar and Olivia Paniagua regarding the proposed legislation concerning master tenants and subtenants.

C. A copy of the Court of Appeal's decision in 152 Valparaiso Associates v. City of Cotati, issued on July 22, 1997.

D. Proposed New Regulation 6.15 from Commissioner Marshall regarding changes in roommates.

E. Proposed New Regulations 12.20 and 12.21 from Commissioner Becker regarding evictions under Ordinance Sections 37.9(a)(2) and 37.9(a)(5).

F. Monthly Summary of Rent Board Mediation Agreements for June 1997.



XI. Director's Report

Executive Director Grubb distributed annual statistics for fiscal year 96/97. Highlights include the following: Tenant petition filings are up 33% over last year. Capital improvement petition filings are up 70% over last year. All eviction notices to vacate are up 69% over last year. Owner-occupancy notices to vacate are up 130%. Summary petition filings are up 51% over the previous year. 111,600 phone calls were handled by the automated "Info to Go" line. The counseling staff handled 30,000 phone calls and 13,900 walk-in customers. The public's use of "Fax Facts" has increased from 400 calls in February 1997 to 1,100 in July 1997. The Annual Statistics are on the Fax Facts Line at 252.4660, document number 112.

IV. Remarks from the Public (cont.)

Attorney Olivia Paniagua addressed the Board concerning the proposed legislation covering master tenants and subtenants. She reiterated her position that the Board should codify the definition of a master tenant and specify the master tenant's rights and obligations vis a vis the subtenants.

Andy Braden expressed understanding of, but displeasure at the Board's practice of holding closed sessions prior to the consideration of appeals.

XII. New Business

Commissioner Lightner requested that a public hearing be scheduled on her proposed legislation concerning master tenants and subtenants. The consensus of the Board was to schedule it for September 23, 1997, subject to confirmation by Commissioners Mosser and Marshall and Deputy Director Wolf.

XIII. Calendar Items

August 12, 1997 - NO MEETING

August 19, 1997

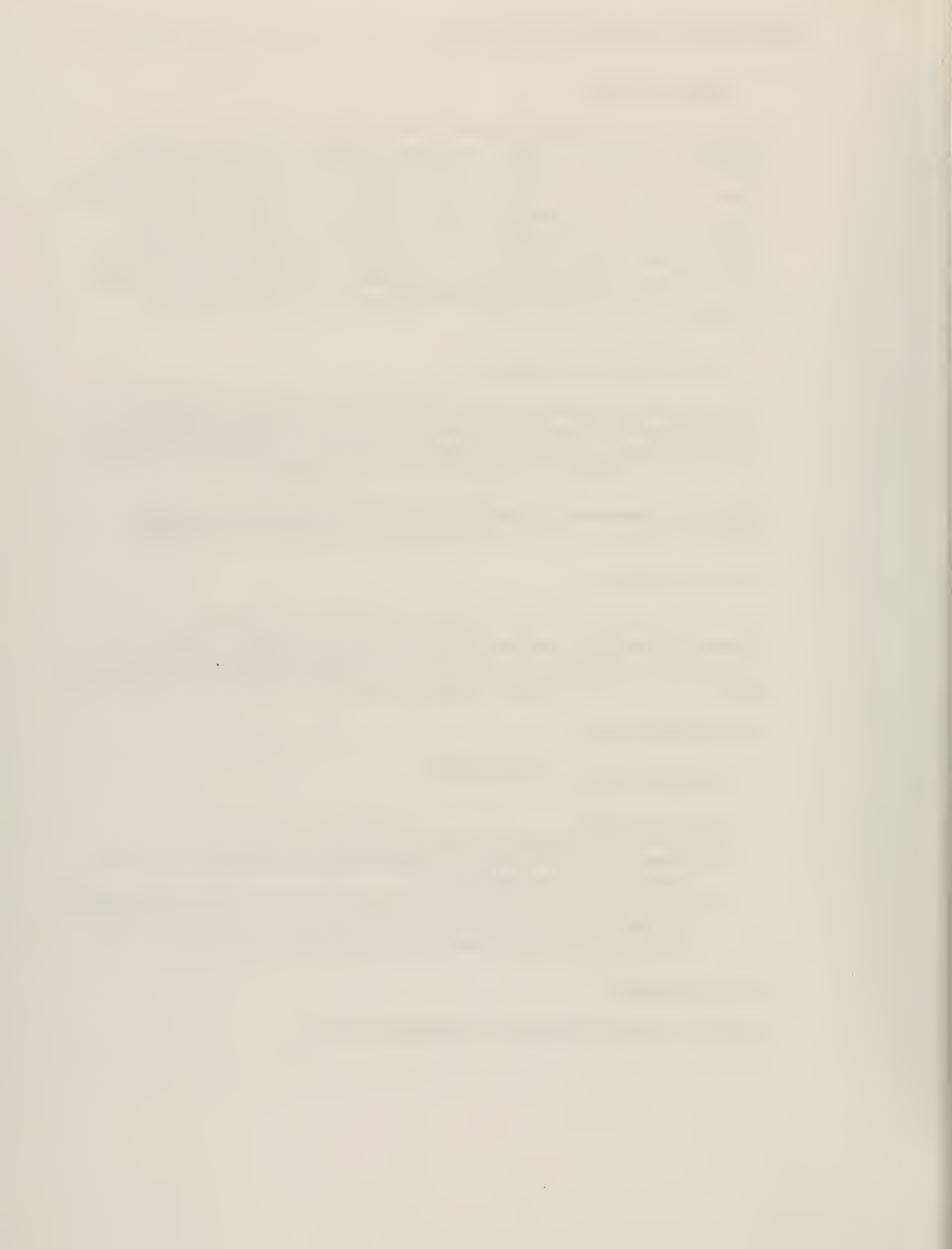
10 appeal considerations (1 cont. from 8/5/97; 1 postponed)

Old Business: Commissioner Lightner's proposed legislation concerning master tenants and subtenants

New Business: Commissioner Marshall's proposed legislation concerning changes in roommates; Commissioner Becker's proposed legislation concerning evictions under Sections 37.9(a)(2) and (a)(5)

XIV. Adjournment

President Lightner adjourned the meeting at 8:13 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
August 19, 1997

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

AGENDA

AUG 10 1997  
SAN FRANCISCO  
PUBLIC LIBRARY  
Fax 415/376-1511  
8/9/97

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public on Items On or Off the Agenda, Except for  
Items Calendared under V., Consideration of Appeals
- V. Consideration of Appeals

A. 2844 Lyon St. R001-71A  
(cont. from 8/5/97)

The landlord appeals the decision granting rent reductions due to decreased housing services.

B. 572 San Jose Ave. S001-02A & S001-03R

The landlord and tenant appeal the remand decision on a tenant's claim of financial hardship pursuant to a rent increase based on comparables.

C. 1406 Pacific Ave. #4 S001-03A

The landlord appeals the denial of a petition for rent increase based on comparable rents.

D. 235 Greenwich St. S001-05R

The tenant appeals the dismissal of her petition alleging decreased housing services, failure to repair and unlawful rent increase.

E. 1000 Green St. #104 S001-07R

One tenant appeals a capital improvement certification decision claiming that the amount of total new rent approved for her unit is incorrect.



F. 1780 Filbert St. S001-05A

The landlord appeals the decision granting claims of decreased housing services but denying a claim of unlawful rent increase.

G. 634 - 18th Ave. S001-04A

The landlord appeals the decision determining rent overpayments due to unlawful rent increases.

H. 3239 - 17th St. #3 S001-07A

One of the landlord respondents appeals the decision granting rent reductions for decreased housing services on the grounds that it is not a landlord.

I. 860 Geary St. #506 S001-06A

The new owner appeals the decision granting claims of decreased housing services, claiming non-receipt of notice of hearing.

J. 16 Linda St. #5 S001-06R

The tenant appeals the dismissal of her petition alleging decreased housing services, claiming non-receipt of notice of hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Commissioner Lightner's Proposed Legislation Concerning Master Tenants and Subtenants

IV. Remarks from the Public (cont.)

IX. New Business

A. Commissioner Marshall's Proposed Legislation Concerning Changes in Roommates

B. Commission Becker's Proposed Legislation Concerning Evictions Under Section 37.9(a)(2) and 37.9(a)(5)

X. Calendar Items

XI. Adjournment



Proposed New Regulation 6.15  
Draft 8/5/97

Section 6.15 Changes in Roommates.

(a) Where a lease or rental agreement, whether oral or written, specifies the number of tenants to reside in a unit, or where the behavior of the landlord and tenants has established that the tenancy includes more than one tenant, the replacement of one or more of the tenants by an equal number of comparable tenants shall not constitute a breach of the lease or rental agreement for purposes of termination of tenancy under Section 37.9(a)(2) of the Ordinance.

(b) For purposes of this Section 6.15, a comparable tenant shall mean a tenant who has adequate financial capability to pay his or her share of the rent for the unit. The landlord may require reasonable evidence of the tenant's financial capability to pay such rent.

(c) Where the lease or rental agreement requires a landlord's consent to a change in tenants, failure to obtain such consent shall not constitute a breach of the lease or rental agreement for purposes of eviction under Section 37.9(a)(2), where the tenant has offered a comparable tenant and the landlord has unreasonably withheld consent to such change.

(d) Nothing in this Section shall prevent the landlord from providing a replacement tenant with written notice as provided under Section 6.14(c) that the replacement tenant is not a tenant as defined in Section 6.14(a) and that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance.





1                   **Proposed New Regulations 12.20 and 12.21**  
2                               **Draft 8/5/97**

3           Section 12.20   Evictions under Section 37.9(a)(2)

4  
5                   (a)   Unilaterally Imposed Obligations and Covenants

6           For purposes of an eviction under Section 37.9(a)(2) of the Ordinance  
7   a landlord shall not endeavor to recover possession of a rental unit because  
8   of the tenant's alleged violation of an obligation or covenant of tenancy, if  
9   such obligation or covenant was unilaterally imposed by the landlord and  
10   either was not included, or is not materially the same as the obligation or  
11   covenant in the rental agreement mutually agreed to by the parties.

12                   (b)   Landlord's Unreasonable Failure to Grant Consent

13           For purposes of an eviction under Section 37.9(a)(2) of the Ordinance  
14   a landlord shall not endeavor to recover possession of a rental unit because  
15   of the tenant's alleged violation of an obligation or covenant of tenancy  
16   requiring the consent of the landlord, if such consent was unreasonably  
17   withheld.

18  
19  
20  
21   Section 12.21   Evictions under Section 37.9(a)(5)

22           For purposes of an eviction under Section 37.9(a)(5) of the Ordinance  
23   a landlord shall not endeavor to recover possession of a rental unit because  
24   the tenant has refused, after written request or demand by the landlord, to  
25   agree to a modification, amendment, extension or renewal of the existing  
26   rental agreement which contains a materially different term than is  
27   contained in the rental agreement mutually agreed to by the parties.





19/97  
2  
MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, August 19, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

SEP 02 1997

SAN FRANCISCO  
PUBLIC LIBRARY

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

Call to Order

President Lightner called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Lightner; Marshall;  
Moore; Murphy.

Commissioners not Present:  
Staff Present:

Mosser; Wasserman.  
Grubb; Wolf.

Commissioner Moore appeared on the record at 6:13 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 5, 1997 with the following correction: the last sentence under New Business on page 5 should reflect that the consensus of the Board was to set aside September 23, 1997 for a possible Public Hearing, rather than to schedule a Public Hearing on that date.  
(Becker/Murphy: 4-0)

IV. Remarks from the Public

Prior to allowing public comment, President Lightner announced that there would be a change in the way this portion of the Agenda is conducted. Effective as of the August 19, 1997 meeting, the public was welcome to comment on any matter of interest to them, including matters scheduled on that evening's Agenda. However, the public was cautioned that any evidence that was discussed would not be considered by the Commission in their consideration of any appeal. These changes were made to ensure compliance with the requirements of the Brown Act and Sunshine Ordinance. The following individuals then addressed the Board:



A. Robert Pender announced that there would be a Public Hearing on the issue of making additional code violations misdemeanors on August 20, 1997 at 1:00 p.m. in Room 410 at City Hall.

B. Gerda Fiske stated that the hearing officer erred and doubled the gross income of Jose Morales, the tenant involved in the hardship appeal concerning the property at 572 San Jose Ave. (S001-02A & S001-03R).

C. Jose Morales spoke regarding his appeal in the above-referenced case, asserting that: three issues from his first appeal remain unresolved; it would be an imposition for him to have to get a roommate; and he shouldn't have to work additional hours, seeing as how he is an injured senior citizen.

D. Constance Kruk spoke in support of tenant Jose Morales, calling the current housing market "appalling."

E. The landlord in the case at 572 San Jose, Ara Tehralian, informed the Board that this case has been going on for three years and it has created hardships for him as well. He expressed his belief that there are many ways that Mr. Morales could better his situation.

V. Consideration of Appeals

A. 2844 Lyon St.

R001-71A  
(cont. from 8/5/97)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,745.00 due to serious habitability defects on the premises. The landlord failed to appear at the hearing and maintained on appeal that the Notice of Hearing was sent to an incorrect address. Additionally, the landlord claimed that a \$100.00 per month rent reduction due to lack of heat was excessive because the heat is defective but operative; that the common area lighting problem was corrected immediately after notice; that the cracked and broken windows are the fault of the tenant; that the tenant painted the unit with the wrong paint, which created peeling; that there is mildew in the unit due to the tenant's failure to ventilate; and that the tenant's filing of the petition was not in good faith but was in retaliation for the landlord's service of a 3-Day Notice to Pay Rent or Quit. As the landlord had informed the Director that she would be sending the Board a copy of her Declaration of Non-Receipt of Notice, which she believed her attorney had already mailed to the Board, the Board continued consideration of this case from the meeting on August 5, 1997. The Declaration of Non-Receipt of Notice of Hearing was subsequently received.

As there were several inconsistencies in the landlord's communications regarding her correct address and notations in the file that she had been called twice regarding the hearing by staff, it was the consensus of the Board for staff to write a letter requesting clarification under penalty of perjury. The matter was therefore further continued to the meeting on September 16th.





B. 572 San Jose Ave.

S001-02A & S001-03R

This case involves a Proposition I Affected Unit. The tenant's petition alleging unlawful increases in rent due to capital improvement passthroughs not having been discontinued and having been improperly included in base rent was denied due to the equitable defense of laches. The landlord's petition for a rent increase based on comparable rents was granted, resulting in a rent increase for the unit in the amount of \$312.60 (from \$339.00 to \$651.60). The tenant's appeal was accepted and remanded only on his claim of financial hardship. In the Decision on Remand, the hearing officer found sufficient evidence of financial hardship to waive the retroactive amount owed from the tenant to the landlord (\$7,189.80), but ordered that the tenant commence payment of the approved rent increase as of July 1, 1997. Both the landlord and the tenant appeal the remand decision. The tenant maintains that factual and legal errors in the original Decision of Hearing Officer regarding the comparables rent increase should be reexamined; and asserts that the hearing officer erred in finding insufficient hardship to disallow all or part of the noticed increase. The landlord appeals the waiver of the retroactive amount owed in its entirety, maintaining that the tenant has the ability to repay the sum in installments.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Murphy: 4-0)

MSF: To deny both the landlord's and tenant's appeals.  
(Lightner/Gruber: 2-2; Marshall, Moore dissenting)

Consideration of this case was therefore continued to the September 2, 1997 Board meeting.

C. 1406 Pacific Ave. #4

S001-03A

The landlord's petition for a rent increase based on comparable rents was denied. The hearing officer found that the landlord had established the requisite extraordinary circumstances to justify a rent increase based on comparables, and that the rent for the subject unit was set low and kept low due to a special relationship and fraud. However, the landlord failed to meet his burden of proving what a comparable rent for the unit should be, instead providing somewhat unreliable evidence as to "market" rent for the unit. On appeal, the landlord claims that the decision is unsupported by the evidence.

MSF: To deny the appeal. (Marshall/Becker: 2-2; Gruber, Lightner dissenting)

This matter was therefore continued to the Board meeting on September 2, 1997.

D. 235 Greenwich St.

S001-05R

The tenant's petition alleging substantially decreased housing services, failure to repair and an unlawful increase in rent was dismissed due to her failure to appear at the hearing. On appeal the tenant maintains that, when she received notice of a hearing on her landlord's capital improvement petition, scheduled for



a later date, she assumed that the hearing on her tenant petition had been canceled.

MSC: To accept the appeal and remand the case for a new hearing.  
(Marshall/Becker: 4-0)

E. 1000 Green St. #104

S001-07R

The landlord's petition for certification of capital improvement costs for 44 units was granted. One tenant appeals the decision, asserting that the base rent figure for her unit used by the hearing officer is incorrect, in that it includes prior capital improvement and PG&E passthroughs.

MSC: To deny the appeal with the following instructions: the parties are encouraged to resolve the issue of the tenant's rent history. If this is not possible, then the tenant should file a petition for arbitration. (Lightner/Gruber: 4-0)

F. 1780 Filbert St.

S001-05A

The tenant's petition alleging substantial decreases in housing services was granted, and the landlords were found liable to the tenant in the amount of \$4,575.00 due to the lack of heat and waterproofing in the unit. The portion of the tenant's petition alleging unlawful increases in rent was denied because the tenant failed to provide sufficient documentation of her rent history. On appeal, the landlords maintain that the rent reduction in the amount of \$150.00 per month due to lack of heat is excessive considering that the rent for the unit is \$567.84; and heat was provided to the unit promptly after receipt of written notice from the tenant. The landlords also assert that the amount of \$3,750.00 due to leaks in the unit is unfair considering that there was a drought during much of the time period in question; the leaks were quite small; and they did not affect the tenant's living quarters, but only the back porch area.

MSC: To deny the appeal except to remand the case on the issue of when heat was actually restored to the unit. The parties are encouraged to reach an agreement as to the date this was accomplished and adjust the landlord's liability for rent reductions accordingly. If no such agreement is received at the Rent Board office by September 30, 1997, then a hearing on this issue will be scheduled. (Marshall/Becker: 4-0)

G. 634 - 18th Ave.

S001-04A

The tenant's petition alleging unlawful increases in rent was granted, and the landlord was found liable to the tenant in the amount of \$18,311.46. On appeal, the landlord asserts that the tenant is barred from recovery of the rent overpayments due to the equitable doctrines of laches, waiver and estoppel. She asserts, specifically, that: there is no evidence of retaliation against the tenant for her filing of the petition but, rather, a good faith owner-occupancy of



the subject premises pursuant to the provisions of Ordinance Section 37.9(a)(8); the hearing officer's conclusion that the landlord's deceased husband had "unclean hands" is based upon hearsay and is unreliable; the death of the owner who managed the property constitutes real prejudice to the landlord; the tenant's conduct over the years would lead any reasonable landlord to believe that the rent charges were proper and permissible; and fairness dictates that the amount of overpayment be reduced by one-half, on the theory that both parties are equally at fault, conditioned on the landlord's prompt payment to the tenant.

MSF: To deny the appeal. (Becker/Marshall: 2-2; Gruber, Lightner dissenting)

Consideration of this appeal was therefore continued to the September 2, 1997 Board meeting.

H. 3239 - 17th St. #3

S001-07A

The tenants' petition alleging substantial decreases in housing services was granted, and the landlord was found liable to the tenants in the amount of \$14,950.00 due to egregious conditions on the premises. No appearance was made by the landlord at the hearing. The property had been sold prior to the date of the hearing, and Notice of Hearing was sent to the prior owner and the mortgage company (California Mortgage and Realty Company) that had collected rent subsequent to the sale. On appeal, California Mortgage and Realty claims that the company is not an owner but, rather, a second lender that does not hold title to the property.

After discussion, it was the consensus of the Board that this matter be continued to the next meeting in order for the Deputy Director to investigate ownership of the property and confer with the Senior Hearing Officer on policy in the event of an ownership change after a hearing has been held.

I. 860 Geary St. #506

S001-06A

The tenant's petition alleging substantially decreased housing services due to noise from an upstairs neighbor was granted and the landlord was found liable to the tenant in the amount of \$700.00 (\$100.00 per month). The new owners of the property appeal on the grounds that they were not given notice of the hearing.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing. Prior to proceeding with the substance of the hearing, the hearing officer shall determine whether or not actual notice was given to the new owners of the building, even if under a different name. If actual notice was not received by these landlords, then the hearing shall proceed. In the event that these individuals did receive notice,





the hearing shall be discontinued and the Decision of Hearing Officer shall become final. (Marshall/Lightner: 4-0)

J. 16 Linda St. #5

S001-06R

The tenant's petition alleging a substantial decrease in housing services was dismissed due to his failure to appear at the hearing. On appeal, the tenant attaches a Declaration of Non-Receipt of Notice of Hearing, and provides evidence that his proper mailing address is a post office box.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Marshall: 4-0)

#### VI. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the Mediation Statistics for the month of July and a new brochure (Fact Sheet #7) explaining how to calculate annual and banked rent increase amounts.

#### VII. Director's Report

Executive Director Grubb proudly announced the selection of Senior Hearing Officer Sandra Gartzman as a recipient of one of this year's three Managerial Excellence Awards, given by the Mayor's Fiscal Advisory Committee. Sandy will be honored at a luncheon at the St. Francis Hotel on October 28th.

#### VIII. Calendar Items

The Board agreed to schedule a meeting on September 23rd to discuss proposed amendments to the Rules and Regulations. Additionally, Deputy City Attorney Teresa Stricker-Croley will be asked to attend in order to discuss the "Remarks from the Public" portion of the Agenda.

August 26, 1997 - NO MEETING

September 2, 1997

12 appeal considerations (4 cont. from 8/19/97)

September 9, 1997 - NO MEETING

#### XI. Adjournment

President Lightner adjourned the meeting at 8:50 p.m.



# City and County of San Francisco



## Residential Rent Stabilization and Arbitration Board

### NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, 6:00 p.m.,

September 2, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB

EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

#### AGENDA

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SEP 02 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public on Items On or Off the Agenda

V. Consideration of Appeals

A. 572 San Jose Ave.

S001-02A & S001-03F  
(cont. from 8/19/97)

The landlord and tenant appeal the remand decision on the tenant's claim of financial hardship pursuant to a rent increase based on comparables.

B. 1406 Pacific Ave. #4

S001-03A  
(cont. from 8/19/97)

The landlord appeals the denial of a petition for rent increase based on comparable rents.

C. 634 - 18th Ave.

S001-04A  
(cont. from 8/19/97)

The landlord appeals the decision determining rent overpayments due to unlawful rent increases.

D. 3239 - 17th St. #3

S001-07A  
(cont. from 8/19/97)

One of the landlord respondents appeals the decision granting rent reductions for decreased housing services on the grounds that it is not a landlord.

E. 170 Highland Ave.

S001-08A

The landlord appeals the decision granting rent reductions due to decreased housing services.

F. 86 & 88 Frederick St.

S001-12A;  
S001-11R & -12R

Two tenants appeal the decision certifying capital improvement costs; the landlord appeals the portion of the decision determining rent overpayments.



G. 1950 Gough St. #502 S001-08R

One tenant appeals the allowance of debt service as a justification for a rent increase based on increased operating expenses.

H. 1353 Filbert St. S001-09R

The tenant of a Newly Covered Unit under Proposition I appeals the remand decision certifying capital improvement costs.

I. 100 Broderick St. #104 & 306 R001-09A

The landlord appeals a portion of the decision determining rent overpayments but certifying capital improvement costs

J. 1246 Sacramento St. #2 S001-10A

The landlord appeals the portion of the decision that disallows an increase in an adjustable rate mortgage as a basis for a rent increase.

K. 4027 - 27-1/2 Folsom St. S001-11A

The landlord appeals the decision denying rent increases based on increased operating expenses.

L. 4110 Anza St. S001-10R

The tenant appeals the decision granting certification of capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, September 2, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

SEP 12 1997

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

President Lightner called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Moore;  
Mosser; Murphy; Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 6:15 p.m. and went off  
the record at 7:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 19, 1997.  
(Becker/Gruber: 5-0)

IV. Remarks from the Public

President Lightner reminded the public in attendance that they were welcome to  
comment on any matter of interest to them, including matters scheduled on the  
Agenda. However, any evidence that was discussed would not be considered  
by the Commission in their consideration of any appeal. The following  
individuals then addressed the Board:

A. Gerda Fiske pointed out that the case of Jose Morales at 572 San Jose  
Ave. (S001-02A & S001-03R) was remanded on the issue of tenant hardship.  
She was therefore surprised that hearing officer Dave Wharton acted as a  
mediator, rather than as an arbitrator, for much of the proceedings.

B. Constance Kuck gave an overview of the history of Proposition I and  
stated her belief that housing is a human right.

C. Jose Morales spoke in support of his appeal and expressed his  
gratitude for the enactment of the Sunshine Ordinance.



D. Robert Pender stated his opinion that Jose Morales is a victim of injustice.

E. Ara Tehralian, the landlord involved in the case at 572 San Jose Ave., cautioned the Board that, by not requiring Mr. Morales to obtain a roommate when there had previously been another occupant in the unit, the wrong message was being sent to other tenants.

V. Consideration of Appeals

A. 572 San Jose Ave.

S001-02A & S001-03R  
(cont. from 8/19/97)

This case involves a Proposition I Affected Unit. The tenant's petition alleging unlawful increases in rent due to capital improvement passthroughs not having been discontinued and having been improperly included in base rent was denied due to the equitable defense of laches. The landlord's petition for a rent increase based on comparable rents was granted, resulting in a rent increase for the unit in the amount of \$312.60 (from \$339.00 to \$651.60). The tenant's appeal was accepted and remanded only on his claim of financial hardship. In the Decision on Remand, the hearing officer found sufficient evidence of financial hardship to waive the retroactive amount owed from the tenant to the landlord (\$7,189.80), but ordered that the tenant commence payment of the approved rent increase as of July 1, 1997. Both the landlord and the tenant appeal the remand decision. The tenant maintains that factual and legal errors in the original Decision of Hearing Officer regarding the comparables rent increase should be reexamined; and asserts that the hearing officer erred in finding insufficient hardship to disallow all or part of the noticed increase. The landlord appeals the waiver of the retroactive amount owed in its entirety, maintaining that the tenant has the ability to repay the sum in installments.

Because of the absence of a voting neutral Commissioner at the August 19, 1997 meeting, consideration of this matter was continued.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Marshall/Gruber: 5-0)

MSC: To deny both the landlord's and tenant's appeals.  
(Wasserman/Gruber: 3-2; Marshall, Moore dissenting)

B. 1406 Pacific Ave. #4

S001-03A  
(cont. from 8/19/97)

The landlord's petition for a rent increase based on comparable rents was denied. The hearing officer found that the landlord had established the requisite extraordinary circumstances to justify a rent increase based on comparables, and that the rent for the subject unit was set low and kept low due to a special relationship and fraud. However, the landlord failed to meet his burden of proving what a comparable rent for the unit should be, instead



providing somewhat unreliable evidence as to "market" rent for the unit. On appeal, the landlord claimed that the decision is unsupported by the evidence. Because of the Board's failure to pass a final motion at the meeting on August 19th, this case was continued. After further discussion at the September 2nd meeting, it was the consensus of the Board to again continue this matter in order to obtain clarification from the hearing officer as to exactly what instructions the landlord received pertaining to the inadequacy of his comparables evidence.

C. 634 - 18th Ave.

S001-04A  
(cont. from 8/19/97)

The tenant's petition alleging unlawful increases in rent was granted, and the landlord was found liable to the tenant in the amount of \$18,311.46. On appeal, the landlord asserts that the tenant is barred from recovery of the rent overpayments due to the equitable doctrines of laches, waiver and estoppel. She asserts, specifically, that: there is no evidence of retaliation against the tenant for her filing of the petition but, rather, a good faith owner-occupancy of the subject premises pursuant to the provisions of Ordinance Section 37.9(a)(8); the hearing officer's conclusion that the landlord's deceased husband had "unclean hands" is based upon hearsay and is unreliable; the death of the owner who managed the property constitutes real prejudice to the landlord; the tenant's conduct over the years would lead any reasonable landlord to believe that the rent charges were proper and permissible; and fairness dictates that the amount of overpayment be reduced by one-half, on the theory that both parties are equally at fault, conditioned on the landlord's prompt payment to the tenant. Due to the absence of a voting neutral Commissioner at the meeting on August 19th, consideration of this appeal was continued.

MSC: To deny the appeal. (Wasserman/Becker: 3-2; Gruber, Lightner dissenting)

D. 3239 - 17th St. #3

S001-07A  
(cont. from 8/19/97)

The tenants' petition alleging substantial decreases in housing services was granted, and the landlord was found liable to the tenants in the amount of \$14,950.00 due to egregious conditions on the premises. No appearance was made by the landlord at the hearing. The property had been sold prior to the date of the hearing, and Notice of Hearing was sent to the prior owner and the mortgage company (California Mortgage and Realty Company) that had collected rent subsequent to the sale. On appeal, California Mortgage and Realty claims that the company is not an owner but, rather, a second lender that does not hold title to the property.

After discussion, this matter was continued from the meeting on August 19th in order for the Deputy Director to investigate ownership of the property and confer with the Senior Hearing Officer on policy in the event of an ownership change





after a hearing has been held. After receiving a report from Deputy Director Wolf, and further discussion, the Board voted as follows:

MSC: To deny the appeal. (Marshall/Wasserman: 5-0)

E. 170 Highland Ave.

S001-08A

The tenants' petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenants in the amount of \$4,080.00 due to serious habitability defects on the premises. The landlord failed to appear at the original hearing and appealed the decision on the grounds of non-receipt of notice of hearing. The appeal was accepted and the case was remanded for a new hearing. On remand, the hearing officer granted rent reductions in the amount of \$3,567.00. The landlord appeals the Decision on Remand, providing copies of receipts and proposals that he claims prove that many of the conditions cited in the decision have been remedied.

MSC: To deny the appeal. (Becker/Wasserman: 5-0)

F. 86 & 88 Frederick St.

S001-12A; S001-11R & -12R

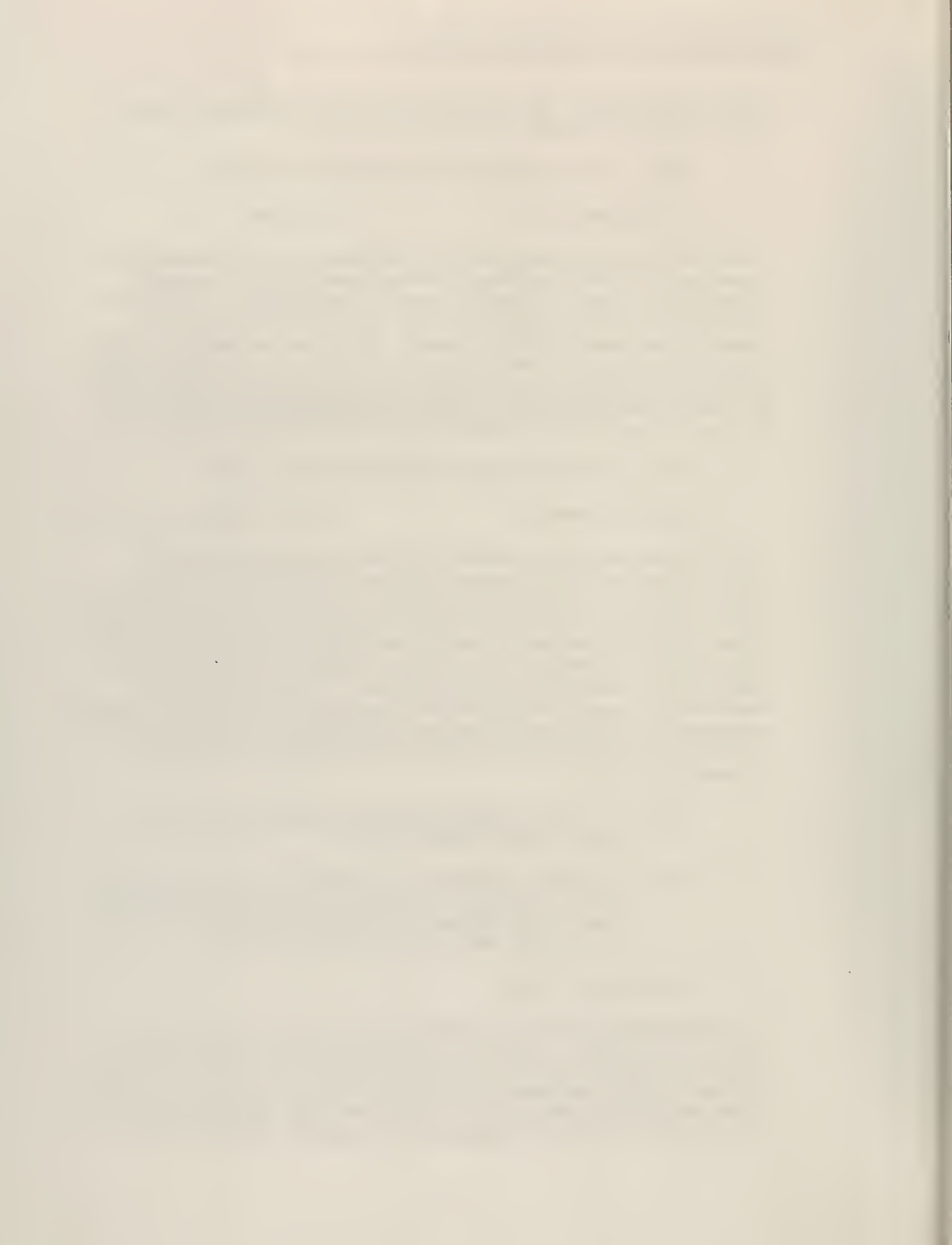
The landlord's petition for certification of capital improvement costs was granted, in part, and the landlord was found liable to two tenants for slight overcharges in rent. The landlord appeals the decision on the grounds that the move-in date used by the hearing officer for one of the tenancies was incorrect, in that the tenancy consisted of revolving roommates. Therefore, the landlord asserts that he was entitled to several years of banked increases prior to the instant tenant's having resided on the premises. Two tenants appeal the decision on the grounds that certain items constituted repairs rather than capital improvements; were the result of deferred maintenance; and/or were unfairly allocated. One tenant also contends that the rent history in the decision is incorrect as to her unit.

MSC: To recuse Commissioner Moore from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To accept the landlord's and tenant's appeals and remand the case for a hearing only on the issue of the rent history for the tenant in unit #88, and to correct the allocation of the costs of the new front window. (Becker/Wasserman: 5-0)

G. 1950 Gough St. #502

The landlord's petition for a rent increase based on increased operating expenses was granted. The tenant appeals the decision on the grounds that the landlord's debt service costs should be disallowed, because the landlord's loan had an initial, low "teaser" rate, which the landlord knew would go up; that the hearing officer should have looked only at the costs associated with her unit, as opposed to the operating expenses for the entire 35-unit condominium



complex; and, since the landlord's homeowners' association fees did not go up, the actual costs to the landlord did not increase.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

H. 1353 Filbert St.

S001-09R

This case concerns a Newly Covered Unit under Proposition I. The landlord's petition for certification of capital improvement costs was granted, in part. On appeal from the landlord and two tenants, the case was remanded by the Commissioners with instructions to determine whether the landlord had previously been compensated for costs of capital improvement work, among other issues. The hearing officer found that this was not the case. One tenant appeals the Decision on Remand, asserting that, since there were regular, sizable rent increases every year of the tenancy, the landlord has clearly been adequately compensated; and that by the use of the word "repair" on at least one notice of rent increase, the landlord also meant to include what would more properly be called "capital improvement" work.

MSC: To recuse Commissioner Lightner from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

I. 4110 Anza St.

S001-10R

The landlords' petition for certification of capital improvement costs to the tenants in one unit was granted, in part. The tenants appeal on the grounds that: they should not be liable for work done in the back yard area, as they are denied access to the back yard by the landlord; and that an outdoor light fixture did not need replacement and the cost of the replacement fixture was excessive.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; Becker, Bierly dissenting)

J. 100 Broderick St. #104 & 306

R001-09A

The landlord's appeal was filed five days late because the landlord claimed that he was unable to check his mailbox due to having had knee surgery.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Lightner: 4-1; Bierly dissenting)

The landlord's petition for certification of capital improvement costs was granted, in part. In addition, the hearing officer determined rent overcharges due to annual increases having been calculated on base rent amounts that included parking charges that were not yet in effect. On appeal, the landlord submits estoppel certificates obtained at the time of purchase that indicate that



the tenants were already paying extra for garage space. He therefore asks that the otherwise allowable banked increases be recalculated on the proper base rent amounts, exclusive of parking charges.

MSC: To accept the appeal and remand the case for a new hearing to determine when parking was obtained by the tenants.  
(Wasserman/Gruber: 5-0)

K. 1246 Sacramento St. #2

S001-10A

The landlord's petition for a rent increase based on increased operating expenses but granted, in part. The categories of debt service and property taxes were disallowed, however, because the landlord had obtained an increase on those grounds subsequent to his purchase of the property. On appeal, the landlord asserts that Section 6.10(e) of the Rules and Regulations should not apply in the instant case because there was no change in ownership or refinancing, just an increase in an adjustable rate mortgage. Additionally, the increase in property taxes was a normal, annual adjustment, and was not due to reassessment upon transfer of the property.

MSC: To accept the appeal and remand the case to the hearing officer on the record to grant the landlord's increase in property taxes and make any necessary corrections to the decision.  
(Becker/Bierly: 5-0)

L. 4027 - 27-1/2 Folsom St.

S001-11A

The landlords' petition for rent increases based on increased operating expenses was denied. The hearing officer found that the majority of the increased costs were in the category of repairs, and that most of these items constituted capital improvements. On appeal, the landlords claim that the hearing officer completely disregarded documented repairs in the amount of \$2,670.35.

MSC: To deny the appeal. The landlord is, however, encouraged to file a petition for capital improvement certification.  
(Lightner/Gruber: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The monthly office workload statistics for July, 1997.

B. The recent California Supreme Court Decision in the case of Kavanaugh v. Santa Monica Rent Control Board, 97 Daily Journal D.A.R. 11069.





VII. Calendar Items

September 9, 1997 - NO MEETING

September 16, 1997

9 appeal considerations (1 post. & 1 cont. from 8/19/97)

September 23, 1997

Discussion of "Remarks from the Public" portion of the Agenda  
with the City Attorney

Discussion of Proposed Amendments and Additions to the Rules and  
Regulations Pertaining to Material Changes in the Terms of a Tenancy;  
Rent Paid by "Master Tenants"; and Changes in Roommates

VIII. Adjournment

President Lightner adjourned the meeting at 9:00 p.m.





SF  
R52  
#1

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

9/16/97

Tuesday, 6:00 p.m.,

September 16 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

Fax Copy 1st Posted 9/11/97  
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SEP 12 1997

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PUBLIC LIBRARY

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 4163 - 23rd St. S001-04R  
(post. from 8/19/97)

The tenant appeals the decision granting certification of capital improvement costs.

B. 2844 Lyon St. R001-71A  
(cont. from 8/19/97)

The landlord appeals the decision granting rent reductions due to decreased housing services.

C. 1830 Jackson St. #A, B, D & E S001-13A

The landlord appeals the portion of the decision denying rent increases based on increased operating expenses.

D. 930 Sutter St. #107 S001-13R

One tenant appeals the remand decision certifying capital improvement costs.

E. 1450 Washington St. #7 S001-14R

The tenant appeals the decision granting a rent increase because the last original tenant no longer resides on the premises.

F. 905 Columbus St. #134 S001-15R



One tenant appeals the decision certifying the costs of seismic work on the grounds of financial hardship.

G. 1464 - 45th Ave. S001-14A

The landlord appeals the portion of the decision which grants rent reductions due to decreased housing services.

H. 2890 California St. #502 S001-16R

The tenant appeals the decision partially granting her claim of financial hardship.

I. 119 Hancock St. S001-17R

The tenant appeals a decision granting a rent increase based on comparable rents.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





## City and County of San Francisco

Residential Rent Stabilization  
and Arbitration BoardMINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,WILLIE L. BROWN, JR.  
MAYORMERRIE T. LIGHTNER  
PRESIDENTTuesday, September 16, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelJOSEPH GRUBB  
EXECUTIVE DIRECTORSHARON K. WASSERMAN  
VICE-PRESIDENTI. Call to Order

DOCUMENTS DEPT.

LARRY BEACH BECKER Commissioner Becker called the meeting to order at 6:10 p.m.  
SHIRLEY A. BIERLY

SEP 19 1997

DAVID GUSTAV GRUBER II. Roll Call  
POLLY MARSHALLSAN FRANCISCO  
PUBLIC LIBRARY

EVERETT Q. MOORE

Commissioners Present: Becker; Bierly; Gruber; Moore.  
Commissioners not Present: Lightner; Marshall; Wasserman.  
Staff Present: Grubb; Wolf.

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

Commissioner Mosser appeared on the record at 6:13 p.m.; Commissioner  
Murphy arrived at 6:15.III. Approval of the MinutesMSC: To approve the Minutes of September 2, 1997.  
(Bierly/Gruber: 3-0)IV. Remarks from the PublicRobert Pender announced that the Affordable Housing Alliance will be holding  
an endorsement meeting for candidates running for office in the November  
election on September 22nd from 5:15 - 6:30 p.m. at 25 Van Ness, Lower  
Lobby, Studio B.V. Consideration of Appeals

A. 4163 - 23rd St.

S001-04R  
(post. from 8/19/97)

The landlord's petition for certification of capital improvement costs was granted, resulting in capital improvement passthroughs in excess of \$400 to the tenants in four units. One tenant appeals the decision, asserting that: the two new decks added to the structure should be considered "luxury items", her deck is smaller than that of her neighbor's, and the new decks are smaller than the original decks; she should not have to pay for energy conservation work because she was not provided with low-flow water devices and she purchased her own shower assembly; the costs of new carpet and mini-blinds should be allocated separately to each unit, and not equally to all units in the building;



allocation of the costs of garden renovation should factor in use of the garden by tenants who reside in an adjacent building owned and occupied by the same landlord; the rebuilding of the rear stairs and decks was due to the landlord's deferred maintenance and the costs were found to be excessive by the basement area of the building.

MSF: To accept the appeal and remand the case on the issues of: whether the rebuilding of the rear stairs and decks was due to the landlord's deferred maintenance; the discrepancy between the landlord's costs and the amount deemed to be reasonable by the independent estimator; and whether the costs of garden renovation should factor in the use of the garden by tenants who reside in an adjacent building owned and occupied by the same landlord. (Becker/Bierly: 2-2; Gruber, Murphy dissenting)

Consideration of this matter was therefore continued to the next meeting.

B. 2844 Lyon St.

R001-71A

(cont. from 8/19/97)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,745.00 due to serious habitability defects on the premises. The landlord failed to appear at the hearing and maintained on appeal that the Notice of Hearing was sent to an incorrect address. Additionally, the landlord claimed that a \$100.00 per month rent reduction due to lack of heat was excessive because the heat is defective but operative; that the common area lighting problem was corrected immediately after notice; that the cracked and broken windows are the fault of the tenant; that the tenant painted the unit with the wrong paint, which created peeling; that there is mildew in the unit due to the tenant's failure to ventilate; and that the tenant's filing of the petition was not in good faith but was in retaliation for the landlord's service of a 3-Day Notice to Pay Rent or Quit. As the landlord had informed the Director that she would be sending the Board a copy of her Declaration of Non-Receipt of Notice, which she believed her attorney had already mailed to the Board, the Board continued consideration of this case from the meeting on August 5, 1997. The Declaration of Non-Receipt of Notice of Hearing was subsequently received.

As there were several inconsistencies in the landlord's communications regarding her correct address and notations in the file that she had been called twice regarding the hearing by staff, it was the consensus of the Board at the August 19th meeting for staff to write a letter requesting clarification under penalty of perjury. The matter was therefore further continued. Upon discussion of the landlord's response to the Board's queries, the Commissioners in attendance voted as follows:



MSF: To deny the appeal. (Becker/Bierly: 2-2; Gruber, Murphy dissenting)

Consideration of this case was again continued, to the September 23rd meeting.

C. 1830 Jackson St. #A, B D & E

S001-13A

The landlord's appeal was filed 16 days late because the decision was mailed and received while the landlord's representative was on vacation.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Murphy: 4-0)

The landlord's petition for certification of capital improvement costs was granted, in part. The portion of the petition requesting rent increases based on increased operating expenses was denied due to the landlord's failure to prove an increase in the aggregate cost of operating and maintenance expenses for the building. On appeal, the landlord alleges that: the hearing officer made inconsistent distinctions between capital improvements and repairs; he was unaware that a computer printout would have been acceptable in lieu of invoices and canceled checks, and he requests the opportunity to obtain such evidence now; costs attributable to owner-occupied units should be considered as part of the aggregate in exactly the same manner as costs attributable to tenant-occupied units; and that the increase in debt service alone should serve to justify the requested increases.

MSC: To deny the appeal. (Becker/Bierly: 3-1; Gruber dissenting)

D. 930 Sutter St. #107

S001-13R

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses was granted, in part. On appeal, the case was accepted and remanded to the hearing officer to make certain corrections, and to add two units improperly deemed to have been withdrawn from the petition. One of the tenants who had been thought to have been withdrawn appeals the remand decision on due process grounds, claiming that he was denied his right to a hearing. He did not appear at the original hearing, of which he had been sent notice.

MSC: To deny the appeal. (Becker/Bierly: 4-0)

E. 1450 Washington St. #7

S001-14R

The landlord's petition for a rent increase on the grounds that the last original tenant had vacated the rental unit was granted, resulting in a rent increase from \$1,422.00 to \$2,000.00 per month. The tenant, who failed to appear at the hearing, appeals on the grounds that the hearing officer's decision is heavily weighted in favor of the landlord. She claims that she was unable to attend on





the day of the hearing; was unaware of how the process works; and requests an opportunity to submit evidence and present her version of the facts.

MSC: To deny the appeal. (Becker/Murphy: 4-0)

F. 905 Columbus St. #134

S001-15R

The landlords' petition for certification of capital improvement costs resulting from seismic work on an unreinforced masonry building was approved, resulting in a passthrough in the amount of \$11.61 per month to the tenants in twenty units. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Gruber/Murphy: 4-0)

G. 1464 - 45th Ave.

S001-14A

The portions of the tenant's petition alleging unlawful increases in rent and the landlord's failure to make requested repairs were denied. The landlord was, however, found liable to the tenant in the amount of \$1,639.50 due to substantial decreases in housing services. The landlord appeals the decision on the grounds that: the tenant knew of the condition of the unit prior to the inception of the tenancy and accepted it "as is"; the tenant owes him additional amounts due to late charges, rent withholding, and unilateral lowering of her base rent amount; the broken window latch was caused by a contractor hired by the tenant; the fact that the skylights in the unit are covered with clear plastic does not make them unsafe and there has only been leakage on one occasion; and the kitchen exhaust fan cannot be broken because there is no exhaust fan in the kitchen.

MEC: To accept the appeal and remand the case to the hearing officer only on the issue of the kitchen exhaust fan. A hearing will be held only if necessary, at the discretion of the hearing officer. (Becker/Gruber: 4-0)

H. 2890 California St.

S001-16R

This case arose pursuant to a landlord petition for certification of capital improvement costs, which was granted. The instant tenant's appeal on the basis of financial hardship was granted, and the case was remanded to the hearing officer for a hearing on that claim. In the Decision on Remand, the hearing officer found sufficient hardship to warrant permanent waiver of any retroactive amounts owing and to prevent a third year phase-in in the amount of \$80.11 from taking effect. The tenant appeals the remand decision, asserting that the landlords made clear in their response to the tenant's original appeal that they did not object to a complete waiver of the entire amount granted for this tenant.



MSC: To accept the appeal and remand the case to the hearing officer on the record. Pursuant to the landlord's statement in response to the tenant's original appeal, the approved capital improvement passthrough shall be waived in its entirety unless and until the tenant's financial circumstances should change. (Gruber/Bierly: 4-0)

I. 119 Hancock St.

S001-17R

The landlord's petition for a rent increase based on comparables for a Newly Covered Unit under Proposition I was granted, allowing the landlord to raise the rent from \$920.00 to \$1,267.58 per month. The tenant appeals the decision, asserting that: he was not permitted to see nor respond to the measurements taken of the size of the unit, upon which the hearing officer relied; a minimal amount of refurbishing of the unit was done prior to his moving in; and the hearing officer seriously undervalued the rental value of a unit with an additional bedroom and panoramic view, skewing the comparables analysis used to justify the amount approved.

MSC: To deny the appeal. (Gruber/Murphy: 4-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar the Commissioners received the following communications:

A. The monthly Summary of Mediation Agreements for July, 1997.

B. A letter from Attorney Mary Jane Foran, urging the Board to adopt regulations clarifying whether a landlord has a right to unilaterally change the terms of a long-term tenancy.

C. A job description for the position of Rent Board Hearing Officer.

#### VII. Director's Report

In the absence of Executive Director Joe Grubb, Deputy Director Delene Wolf informed the Commissioners that hearing officers Rennika Pickman-Thoon and Erika Pardo have resigned. Senior Hearing Officer Sandra Gartzman is currently recruiting in order to fill one permanent full-time position; one temporary full-time position (through June, 1998); and one permanent half-time position. The Commissioners were encouraged to refer any qualified applicants.

#### IV. Remarks from the Public (cont.)

Ken Miller from Catholic Health Care West, a property management firm, remarked that the Board's consideration of deferred maintenance as a defense



Page 6 of the Minutes of September 16, 1997

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to a capital improvement passthrough should include some consideration of the landlord's financial situation.

VIII. Calendar Items

September 23, 1997

Discussion of "Remarks from the Public" portion of the Agenda  
with the City Attorney

Discussion of Proposed Amendments and Additions to the Rules and  
Regulations Pertaining to Material Changes in the Terms of a Tenancy;  
Rent Paid by "Master Tenants"; and Changes in Roommates

September 30, 1997 - NO MEETING

October 7, 1997

8 appeal considerations (1 cont. from 9/2/97)

IX. Adjournment

Commissioner Becker adjourned the meeting at 7:25 p.m.





City and County of San Francisco



Residential Rent Stabilization  
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.

MAYOR

MERKIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
September 23, 1997  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

DOCUMENTS DEPT.

SEP 19 1997

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DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order  
II. Roll Call  
III. Approval of the Minutes  
IV. Remarks from the Public  
V. Consideration of Appeals

A. 4163 - 23rd St.

S001-04R  
(cont. from 9/16/97)

The tenant appeals the decision granting certification of capital improvement costs.

B. 2844 Lyon St.

R001-71A  
(cont. from 9/16/97)

The landlord appeals the decision granting rent reductions due to decreased housing services.

VI. Old Business

- A. Discussion of "Remarks from the Public" Portion of the Agenda with Deputy City Attorney Teresa Sticker-Croley  
B. Discussion of Proposed Amendments and Additions to the Rules and Regulations Pertaining to Material Changes in the Terms of a Tenancy; Rent Paid by "Master Tenants"; and Changes in Roommates

VI. Communications

VII. Director's Report

IV. Remarks from the Public (cont.)

X. New Business

XII. Calendar Items

XIII. Adjournment



## ACCESSIBLE MEETING POLICY

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## Know Your Rights Under the Sunshine Ordinance

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For more information on your rights under the Sunshine Ordinance (Chapter 07 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4651.

(2/97) lk/comm/accmtg



MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, September 23, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

OCT 01 1997

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POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

**I. Call to Order**

President Lightner called the meeting to order at 6:10 p.m.

**II. Roll Call**

Commissioners Present: Becker; Gruber; Lightner; Marshall; Moore;  
Mosser; Murphy; Wasserman.  
Commissioners not Present: Bierly.  
Staff Present: Grubb; Wolf.

Commissioner Murphy went off the record at 9:30 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of September 16, 1997.  
(Becker/Gruber: 5-0)

**IV. Remarks from the Public**

A tenant in the audience expressed his interest in the Board's proposed legislation pertaining to "Master Tenants" since he is currently in the process of being evicted by a Master Tenant who he believed was only a roommate. He suggested that the Board define and codify this term and require that a Master Tenant disclose their status as such at the inception of any subtenant's occupancy of the unit. His attorney, Olivia Paniagua, obtained clarification that Commissioner Lightner's proposal regarding Master Tenants was just for discussion, and not draft language to be put out for Public Hearing.

**V. Consideration of Appeals**

4163 - 23rd St.

S001-04R  
(cont. from 9/16/97)

The landlord's petition for certification of capital improvement costs was granted, resulting in capital improvement passthroughs in excess of \$400 to the



tenants in four units. One tenant appeals the decision, asserting that: the two new decks added to the structure should be considered "luxury items", her deck is smaller than that of her neighbor's, and the new decks are smaller than the original decks; she should not have to pay for energy conservation work because she was not provided with low-flow water devices and she purchased her own shower assembly; the costs of new carpet and mini-blinds should be allocated separately to each unit, and not equally to all units in the building; allocation of the costs of garden renovation should factor in use of the garden by tenants who reside in an adjacent building owned and occupied by the same landlord; the rebuilding of the rear stairs and decks was due to the landlord's deferred maintenance and the costs were found to be excessive by the independent estimator; and she derives no benefit from work done in the basement area of the building. At the meeting on September 16, 1997, a motion to accept the appeal and remand on certain issues was made and seconded, but failed to pass. Consideration of this matter was therefore continued.

MSC: To accept the appeal and remand the case to the same hearing officer on the record to clarify her findings regarding the issue of whether the rebuilding of the rear stairs and decks was due to the landlord's deferred maintenance; and to obtain information from the estimator as to whether costs attributable to profit and overhead were factored into her valuation of the subject work. A hearing will be held only if necessary. (Becker/Marshall: 5-0)

B. 2844 Lyon St.

R001-71A  
(cont. from 8/19/97)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$7,745.00 due to serious habitability defects on the premises. The landlord failed to appear at the hearing and maintained on appeal that the Notice of Hearing was sent to an incorrect address. Additionally, the landlord claimed that a \$100.00 per month rent reduction due to lack of heat was excessive because the heat is defective but operative; that the common area lighting problem was corrected immediately after notice; that the cracked and broken windows are the fault of the tenant; that the tenant painted the unit with the wrong paint, which created peeling; that there is mildew in the unit due to the tenant's failure to ventilate; and that the tenant's filing of the petition was not in good faith but was in retaliation for the landlord's service of a 3-Day Notice to Pay Rent or Quit. As the landlord had informed the Director that she would be sending the Board a copy of her Declaration of Non-Receipt of Notice, which she believed her attorney had already mailed to the Board, the Board continued consideration of this case from the meeting on August 5, 1997. The Declaration of Non-Receipt of Notice of Hearing was subsequently received.

As there were several inconsistencies in the landlord's communications regarding her correct address and notations in the file that she had been called





twice regarding the hearing by staff, it was the consensus of the Board at the August 19th meeting for staff to write a letter requesting clarification under penalty of perjury. The matter was therefore further continued. Upon discussion of the landlord's response to the Board's queries at the meeting on August 19, 1997, the Commissioners in attendance made but failed to pass a motion due to the absence of a voting neutral, and the matter was again continued.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer for a new hearing. (Wasserman/Gruber: 3-2; Becker, Marshall dissenting)

## VI. Old Business

### A. "Remarks from the Public" Portion of the Agenda

Deputy City Attorneys Teresa Stricker-Croley and Amy Ackerman were present to discuss the question of whether the Board is required to take public comment before deciding on an appeal from a decision of hearing officer and, if so, what restrictions may be placed on public testimony. Historically, the Board has allowed public comment prior to and after consideration of the calendared appeals. The only limitation on remarks has been that, for due process reasons, parties were not allowed to comment on a case that would be coming before the Board until after the Commissioners had completed their consideration of that matter. However, stipulations of the Brown Act and Sunshine Ordinance had prompted the Board to re-consider that policy and allow the public to comment on any matter on or off the calendar at either of the "Remarks" portions of the calendar. The Commissioners explained their concerns regarding engaging in ex parte communication with either party to a case with the Deputy City Attorneys, who agreed to conduct further research on the tension between open meeting laws and the requirements of due process. Further discussion will be calendared for a future meeting.

### B. Discussion of Proposed Amendments and Additions to the Rules and Regulations

#### 1. Rent Paid by "Master Tenants"

The Board discussed a proposal authored by Commissioner Lightner defining the term "Master Tenant"; requiring that a Master Tenant disclose, upon request from the landlord, the amount of rent being charged to any subtenant(s); and requiring that a Master Tenant pay a proportional share of the rent being paid to the landlord. Commissioner Marshall proposed requiring that a tenant holding him or herself out as a "Master Tenant" disclose that status and the right to evict without just cause pursuant to Ordinance Section 37.9(b) to any subtenant(s) at the inception of the tenancy, and precluding eviction without just cause to any Master Tenant who failed to do so.

#### 2. Changes in Roommates



The Commissioners briefly discussed proposed Rule 6.15, authored by Commissioner Marshall, which would require that where it has been established that a tenancy includes more than one tenant, replacement of one or more tenants by an equal number of comparable tenants shall not constitute a breach of the lease or rental agreement. The Board's discussion centered around how to define "comparable financial ability" and necessary fluctuations due to neighborhood, etc.; and the need for a landlord to look at the financial capability of a household as a whole.

3. Material Changes in the Terms of a Tenancy (30-Day Notice Pursuant to California Civil Code Section 827)

Lastly, the Board discussed new Section 12.20, authored by Commissioner Becker. This proposal specifies that a landlord may not evict a tenant for violation of a term of the tenancy which was unilaterally imposed by the landlord or not materially the same as the terms originally agreed to by the parties. The landlord Commissioners articulated their concerns that the changes in terms included must be material, and that the Board not legislate against reasonable health and safety measures.

Due to the lateness of the hour, discussion of all of the above proposals was continued to the next meeting.

VII. Communications

The Commissioners received the following communications:

- A. The monthly Summary of Mediation Agreements for August, 1997.
- B. The office workload statistics for the month of August, 1997.
- C. A letter from Attorney Robert DeVries concerning the proposed Rules changes on the Agenda.

IV. Remarks from the Public (cont.)

Greg Stephens chastised the Board for discussing what he considered to be the most important portion of the Agenda last, so that he was the only remaining member of the public in attendance. He also felt that the master-tenant issue should be left alone. He also stated his beliefs that: there should be multiple opportunities for the public to comment throughout the meeting; the Commissioners, who represent vested interests, should not have dominated the meeting; landlords have a significant economic advantage in their dealings with tenants, especially in the context of the current housing crisis; the Commissioners should not be partisan, but should keep their mission in mind and remain neutral; and they should not "micro-manage" roommate situations. In additional remarks, Mr. Stephens thanked the Commissioners for their hard work and acknowledged that they play an "active civic role."



VIII. New Business

Commissioner Marshall requested that, when members of the media are present at a meeting and taping and/or videotaping the proceedings, staff ask that they identify themselves and their affiliations.

IX. Calendar Items

September 30, 1997 - NO MEETING

October 7, 1997

8 appeal considerations (1 cont. from 9/2/97)

1 Eviction Consideration

Old Business: Continued Discussion of Proposed Amendments and Additions to the Rules and Regulations Pertaining to Material Changes in the Terms of a Tenancy; Rent Paid by "Master Tenants"; and Changes in Roommates

X. Adjournment

President Lightner adjourned the meeting at 10:25 p.m.







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(2/97) lk/comm/accomtg





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
October 7, 1997

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

For copy 1st Posted 9/30/97  
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OCT 01 1997  
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

A. 1406 Pacific Ave. #4 S001-03A  
(cont. from 9/2/97)

The landlord appeals the denial of a petition for rent increase based on comparable rents.

B. 155 Fillmore St. S001-15A

The landlord appeals the decision determining rent overpayments.

C. 473 Utah St. S001-16A

The landlord appeals the decision granting rent reductions due to loss of quiet enjoyment of the unit.

D. 121 Scott St. S001-17A

The landlord appeals the decision granting certification of capital improvement costs on the grounds that the passthrough should be effective as of the filing date of her original petition.

E. 40 Kittredge Terr. S001-18A

The landlord appeals the decision granting a claim of unlawful rent increases.



F. 3025 Steiner St.

S001-19R thru -25R

Seven tenants appeal the decision granting certification of capital improvement costs, one on the grounds of financial hardship.

G. 797 Cole St.

S001-26R

The tenant appeals the dismissal of his petition on the grounds that he failed to receive the Notice of Hearing.

H. 1166 Haight St.

S001-27 thru -34R

Eight tenants appeal the decision granting certification of capital improvement costs and rent increases based on increased operating expenses.

VI. Communications

VII. Director's Report

VIII. Consideration of Allegation of Wrongful Eviction

74 Caselli Ave.

R008-18E

IX. Old Business

Discussion of Proposed Amendments and Additions to the Rules and Regulations Pertaining to Material Changes in the Terms of a Tenancy; Rent Paid by "Master Tenants"; and Changes in Roommates

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, October 7, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

OCT 16 1997

SAN FRANCISCO  
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I. Call to Order

President Lightner called the meeting to order at 6:06 p.m.

II. Roll Call

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

Commissioners Present: Becker; Gruber; Lightner; Marshall; Moore;  
Wasserman.  
Commissioners not Present: Bierly; Mosser; Murphy.  
Staff Present: Grubb; Wolf.

Commissioner Gruber went off the record at 7:43 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 23, 1997.  
(Gruber/Wasserman: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed those present that restoration of the Renters' Tax Credit was defeated in the State Legislature; another effort will be mounted next year. Ted Gullickson of the Tenants' Union voiced his support for proposed amendments regarding evictions based on breach where changes in the terms of a tenancy were unilaterally imposed by the landlord. A woman in the audience inquired as to how to respond to untrue allegations raised on appeal.

V. Consideration of Appeals

A. 1406 Pacific Ave. #4

S001-03A  
(cont. from 9/2/97)

The landlord's petition for a rent increase based on comparable rents was denied. The hearing officer found that the landlord had established the requisite extraordinary circumstances to justify a rent increase based on comparables, and that the rent for the subject unit was set low and kept low due to a special relationship and fraud. However, the landlord failed to meet his burden of proving what a comparable rent for the unit should be, instead



providing somewhat unreliable evidence as to "market" rent for the unit. On appeal, the landlord claimed that the decision is unsupported by the evidence. Because of the Board's failure to pass a final motion at the meeting on August 19th, this case was continued. After further discussion at the September 2nd meeting, it was the consensus of the Board to again continue this matter in order to obtain clarification from the hearing officer as to exactly what instructions the landlord received pertaining to the adequacy of his comparables evidence.

MSF: To deny the appeal. (Becker/Marshall: 2-3; Gruber, Lightner, Wasserman dissenting)

MSC: To accept the appeal and remand the case to the hearing officer for a hearing on the issue of a comparable rent for this unit; evidence provided by both sides shall emphasize the length of comparable tenancies. (Wasserman/Gruber: 3-2; Becker, Marshall dissenting)

B. 155 Fillmore St.

S001-15A

The tenants' petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenants in the amount of \$2,364.84. On appeal, the landlord asserts that the amount owing to the tenants is actually \$1,462.92, because the tenants did not pay rent for February or March of 1997.

MSC: To accept the appeal and remand the case to the hearing officer on the record to correct the amount owing from the landlord to the tenants. (Marshall/Becker: 5-0)

C. 473 Utah St.

S001-16A

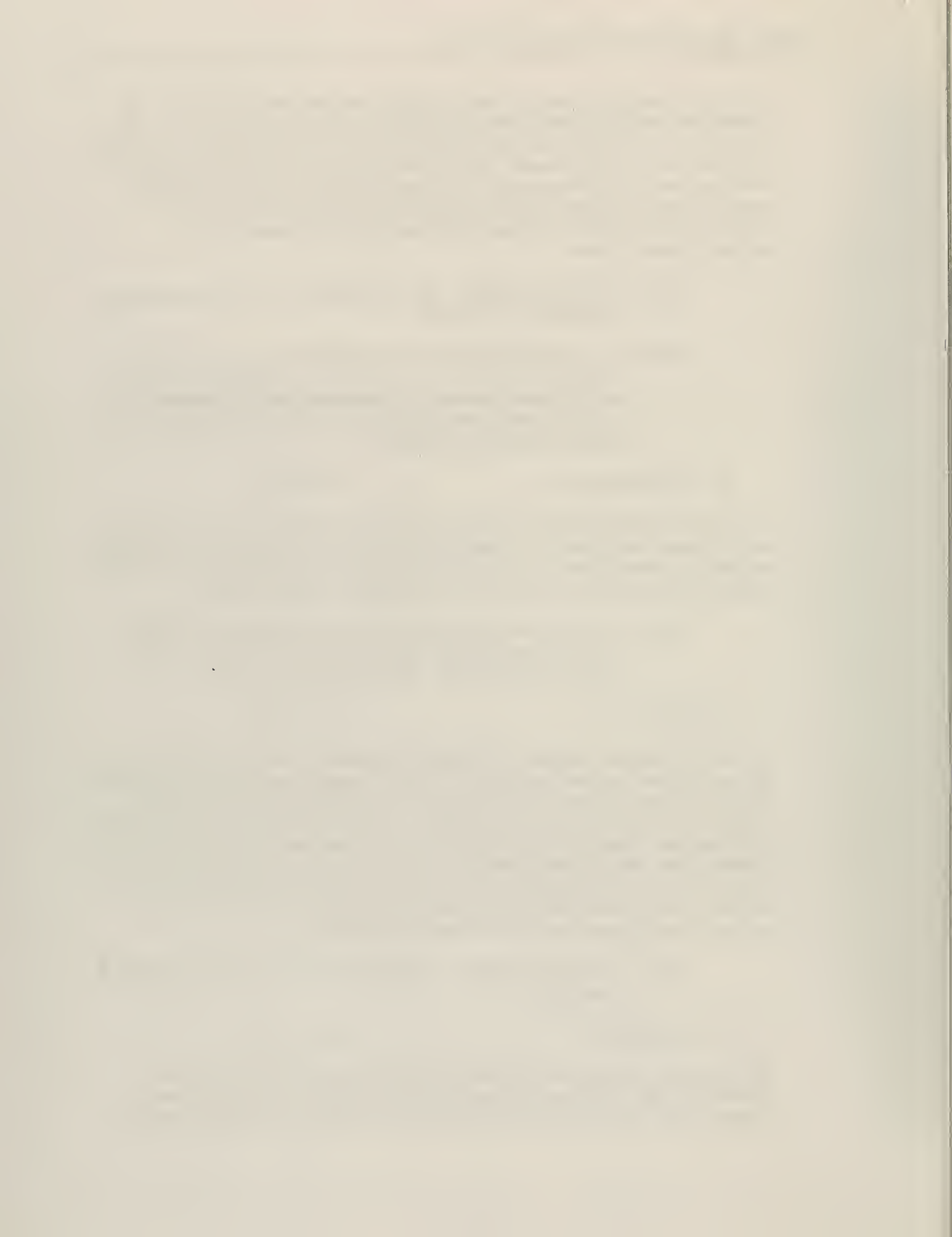
The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$1,655.00 due to habitability problems in the subject unit and excessive noise from the tenant in the unit upstairs. The landlords appeal only the portion of the decision granting rent reductions due to noise from the upstairs neighbor, claiming that: the problem is between the two tenants, and neither party is without blame; the landlords took prompt and reasonable steps to resolve the problem; and the decision fails to indicate any additional actions that the landlords could have taken to ameliorate the problem.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

D. 121 Scott St.

S001-17A

The landlord's petition for certification of capital improvement costs was granted, in part. The hearing officer found, however, that notices of rent increase were improperly served by the landlord prior to the petition having



been filed; and the notices failed to delineate amounts attributable to capital improvements and a PG&E passthrough, as required by law. The landlord had originally petitioned for rent increases based on increased operating expenses and was informed that two of the items included constituted capital improvements. She asked to amend her petition accordingly, and was informed that she must withdraw as to those items and re-file. On appeal, the landlord requests that her notices of rent increase refer back to the filing date of her original petition, since she is being penalized for the length of time it took for the agency to process her petition.

MSC: To deny the appeal. (Becker/Wasserman: 5-0)

E. 40 Kittredge Terr.

S001-18A

The tenant's petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenant in the amount of \$4,000.00. On appeal, the landlord asserts that a 6.67% rent increase should have been allowed by the hearing officer because it was agreed to in the lease entered into by the parties.

MSC: To deny the appeal. (Gruber/Wasserman: 5-0)

F. 3025 Steiner St.

S001-19R thru -25R

The landlord's petition for certification of capital improvement work was granted, resulting in a monthly passthrough in the amount of \$87.64 to the tenants in seven units. One tenant appeals the decision on the grounds of financial hardship. All seven tenants appeal on the grounds that: the tenants were never informed that evidence should be provided in the form of a declaration under penalty of perjury; the majority of time spent at the hearing was devoted to the landlord and his representatives, while the tenants felt rushed and that they were not given sufficient opportunities to testify; the hearing officer was ill-prepared and not familiar with the tenant objections in the record; the former landlord should have sued the owner of the adjoining building to recover the costs of the foundation and dry rot work; the majority of the work was the result of deferred maintenance and more in the nature of repair, except for actual seismic retrofitting of the building; and the water heater is an appliance and its cost should be amortized over seven years.

MSC: To accept the appeal of tenant Janice Bogeatis in unit #5 and remand the case for a hearing on the tenant's claim of financial hardship only. (Becker/Marshall: 5-0)

MSC: To deny the appeals. (Gruber/Lightner: 5-0)

G. 797 Cole St.

S001-26R

The tenant's petition alleging substantial decreases in housing services was dismissed due to his failure to appear at the properly noticed hearing. On





appeal, the tenant alleges that he failed to receive notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Wasserman/Becker: 5-0)

H. 1166 Haight St.

S001-27R thru -34R

The landlords' petition for certification of capital improvement costs and rent increases based on increased operating expenses to the tenants in nine units was granted, in part. Eight tenants appeal the decision, claiming that: the work was done because the landlord was cited by the Department of Building Inspection, and the deferred maintenance defense should therefore apply; the landlord's calendar sheets are insufficient proof that he executed the work and he should be reimbursed at the prevailing labor, rather than licensed carpenter rate; the landlord is being compensated twice, in that he paid less for the building because of the repairs that were necessary; and the landlords have put no money into maintaining the building, as demonstrated by the "Repairs" category of their operating and maintenance expense petition.

MSC: To deny the appeals. (Wasserman/Gruber: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several letters in support of proposed amendments to the Rules and Regulations pertaining to unilaterally imposed changes in the terms of a tenancy.

B. An Order from Municipal Judge Diane Wick denying the tenant's motion for attorney's fees in a case where the attorney's fees clause in the lease was unilaterally revoked by the landlord prior to bringing an unlawful detainer action.

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that the agency will be implementing a new "Call-Back" feature on the counseling lines. After approximately October 17th, if a caller has been on hold for an appreciable period of time, they will be given the option of leaving their phone number and a window of time during which they wish to be called back by a counselor. Mr. Grubb also let the Board know that he will be on vacation from October 15th through 24th.

#### VIII. Consideration of Allegation of Wrongful Eviction

74 Caselli Ave.

R006-32E



The tenants received a notice to vacate for the owners' parents, currently residing in Iran, to occupy the subject premises. As a tenant in another unit in the building had been asked to vacate for the same reason some months before, the tenant alleged that the landlords had ulterior motives and that the eviction attempt was not in good faith. The hearing officer found that there was no evidence of ulterior motive or bad faith, however, there were questions as to how serious the intended occupants of the unit are with regard to assuming a permanent and principal place of residence. It was therefore recommended that a strong cautionary letter be sent to the landlords, explaining the defects in the notices that had been issued and advising them to fully inform themselves of the requirements of the Ordinance and to obtain legal advice.

MSC: To adopt the staff recommendation in this case.  
(Becker/Marshall: 4-0)

#### VIII. Old Business

The Commissioners continued their discussion of proposed amendments and additions to the Rules and Regulations pertaining to material changes in the terms of a tenancy; rent paid by "Master Tenants"; and changes in roommates. It was decided that either Commissioner Marshall or Becker will meet with Commissioner Lightner next week to attempt to draft language acceptable to both the landlord and tenant communities. Commissioner Wasserman made it clear, however, that if no such compromise language is forthcoming, at the next meeting she will vote to put the present drafts out for Public Hearing.

#### IX. Calendar Items

October 14 & 21, 1997 - NO MEETINGS

October 28, 1997

4 appeal considerations

Old Business: Continued Discussion of Proposed Amendments and Additions to the Rules and Regulations Pertaining to Material Changes in the Terms of a Tenancy; Rent Paid by "Master Tenants"; and Changes in Roommates

November 4 & 11, 1997 - NO MEETINGS

#### X. Adjournment

President Lightner adjourned the meeting at 7:53 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 6:00 p.m.,  
October 28, 1997  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

Fax Copy 1st Posted 10/15/97  
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OCT 16 1997

SAN FRANCISCO  
PUBLIC LIBRARY

10/28/97

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY  
NELI NIMA PALMA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 242 Turk St. #438 S001-35R  
One tenant appeals the decision denying his unlawful rent increase claim.
  - B. 450 - 14th St. #A S001-19A  
The landlord appeals the remand decision granting rent reductions due to decreased housing services.
  - C. 2731 Folsom St. S001-21A  
The landlord appeals the decision granting rent reductions due to substantial decreases in housing services.
  - D. 3239-3241 - 17th St. S001-20A  
The landlord appeals the decision granting rent reductions to the tenants in three units due to decreased housing services.
- VI. Communications
- VII. Director's Report
- VIII. Old Business  
Discussion of Proposed Amendments and Additions to the Rules and Regulations Pertaining to Material Changes in the Terms of a Tenancy; Rent Paid by "Master Tenants"; and Changes in Roommates
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment







MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, October 28, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT

NOV 13 1997

SAN FRANCISCO  
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I. Call to Order

LARRY BEACH BECKER  
SHIRLEY A. BIERLY  
DAVID GUSTAV GRUBER  
ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

Vice-President Wasserman called the meeting to order at 6:09 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Marshall; Moore; Mosser;  
Wasserman.  
Commissioners not Present: Bierly.  
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 6:11 p.m.;  
Commissioner Murphy arrived at 6:24 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 7, 1997.  
(Gruber/Becker: 5-0)

IV. Remarks from the Public

The following members of the public addressed the Board:

A. Attorney Nancy Lenvin informed the Commissioners that she had been involved in the drafting of Commissioner Lightner's proposed new Rules Section 6.15 as a private individual, and was available to answer any questions that they might have.

B. Tenant Monique Moro-Jang informed the Board that she had resided in her unit for 32 years, and had always had pets. She was recently served with a 30-day notice pursuant to Civil Code Section 827 changing several of the terms of her tenancy, including the right to have pets. For breach of this new covenant, she is expecting to receive an eviction notice next week. The pets in question are 2 birds.

C. The landlord in the case at 2731 Folsom Street (S001-21A) expressed his frustration, claiming that his tenants have "trashed the place", while he feels he has been more than fair and has not raised the rent for 9 years.

D. The landlord in the case involving 450 - 14th Street (S001-19A) complained that this one tenant was causing him "nothing but problems" and stated that she needed to take more responsibility for the condition of the premises.

E. Tenant Greg Stephens requested that the Board address proposed Rules and Regulations pertaining to material changes in the terms of a tenancy immediately, rather than under the "Old Business" portion of the Agenda, because he had to leave the meeting.

V. Consideration of Appeals

A. 242 Turk St. #438

S001-35R

The tenant's petition alleging an unlawful increase in rent was denied. The tenant resides in a residential program for substance abusers run by the Salvation Army, the primary purpose of which is to supply inexpensive transitional housing to participants for a limited period of time while they search for employment and practice daily living skills in an atmosphere which reinforces non-abusive behavior in a structured setting. At the inception of the tenancy, the tenant signed an agreement stating that the base rent amount of \$400.00 would be discounted for a one year period. After which time the \$150.00 per month subsidy would be discontinued and the tenant would be responsible for the full rent. On appeal, the tenant claims that a medical condition impaired his judgment at the time he signed the original agreement.

MSC: To deny the appeal. (Wasserman/Gruber: 5-0)

B. 450 - 14th St. #A

S001-19A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$4,765.00 due to habitability problems in the subject premises. Additionally, the landlord was ordered to repay rent overpayments in the amount of \$525.00. On appeal of the original decision, the case was remanded to the hearing officer to determine the dates that certain of the conditions were abated, if any. The hearing officer issued a Decision on Remand on the record, in which the landlord was found liable in the amount of \$625.00 due to rent overpayments and \$3,802.51 due to decreased housing services; certain of the conditions were found to have been abated by the landlord and continuing rent reductions were not found to be warranted. The landlord appeals the remand decision, claiming that issues raised in the remand decision went beyond the scope of the appeal; that the hearing officer exhibited bias against the landlord; that certain additional conditions had been remedied, for which invoices are provided; and that the tenant is using the appeal process as a means to avoid paying rent.

MSC: To deny the appeal. (Becker/Wasserman: 5-0)

C. 2731 Folsom St.

S001-21A

The tenants' petition was granted, in part, and the landlord was found liable to the tenants in the amount of \$2,194.75 due to habitability problems in the subject unit. On appeal, the landlord asserts that: in return for the rent not having been increased for nine years, the tenants had agreed to be cooperative about not requesting repairs; the deterioration of the shower is due to the tenants' lack of cleanliness and the fact that some tiles are missing is de minimus; the kitchen floor is not buckled but, as in the case of the shower, only a few tiles are missing; the inspector was incorrect in his assessment that there was water damage to the walls and ceiling of the bathrooms; there is no smell of gas associated with the stove; the broken window in the laundry room is covered by a refrigerator; and one of the windows at issue was broken by the tenants.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

D. 3239-3241 - 17th St.

S001-20A

The landlord's appeal was filed one day late. The landlord in this case is a bank, and the Decision was sent to an office other than the one where counsel for the landlord works.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Lightner: 5-0)

Three tenant petitions alleging substantially decreased housing services were granted, and the landlord was found liable in the amounts of \$6,775.00, \$7,012.50 and \$9,232.50 due to serious habitability problems on the premises. On appeal, the landlord maintains that: notice of the mediation session was untimely and improperly served; this property and the right to collect rents was the subject of a contemporaneous Superior Court action; and the Decision of Hearing Officer is inconsistent with a prior decision by the same hearing officer concerning another unit in the same building.

MSC: To deny the appeal. (Wasserman/Marshall: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. A letter to the landlord in the eviction case concerning the property at 72 Caselli Ave. (R006-32E), which was approved by the Board and signed by President Lightner.

B. A letter from tenant Donald Osborne in support of proposed additions to the Rules and Regulations pertaining to material changes in the terms of a tenancy and changes in roommates.

C. The Mediation statistics for the month of August, 1997.

D. The monthly office workload statistics for September, 1997.

VII. Director's Report

Executive Director Grubb reported as follows:

A. The Mayor has appointed Attorney Anthony Justman as the new voting neutral Commissioner. Mr. Justman will be sworn in on Thursday, October 30th, at 4:30 p.m. in the Mayor's Office.

B. At a luncheon held today, Senior Hearing Officer Sandra Gartzman was presented with a "Public Managerial Excellence Award" by the Mayor's Fiscal Advisory Committee, in recognition of the success of the Mediation Program designed and implemented by she and her staff. Executive Director Grubb, Deputy Director Wolf, President Lightner and Hearing Officers Dave Wharton, Lela Harris and Debbie Lim were in attendance.

VIII. Old Business

The Commissioners continued their discussion of new Rules and Regulations Sections 12.20 and 12.21, specifying that a landlord may not evict a tenant for violation of a term of the tenancy which was unilaterally imposed by the landlord or not materially the same as the terms originally agreed to by the parties. Commissioner Becker had added language to his original draft to make clear that the changes in terms must have been material, and not instituted as reasonable health and safety measures; the landlord Commissioners voiced their concern that changes be allowed in order to address quiet enjoyment and nuisance issues. The Board then voted as follows:

MSC: To put out proposed new Rules and Regulations Sections 12.20 and 12.21 for Public Hearing on November 12, 1997 at 6:00 p.m. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

The Commissioners then discussed a proposed new Rules Section 6.15, authored by President Lightner. The proposal addresses the conditions under which a landlord may withhold consent to subletting in a unit, and the affirmative obligations of tenants who wish to sublet in obtaining the landlord's consent; and disclosure requirements for Master Tenants who wish to be able to evict without "just cause" pursuant to Ordinance Section 37.9(b). Commissioners Marshall and Wasserman volunteered to work on re-drafting the proposal, and agreed to solicit additional input from President Lightner.

IV. Remarks from the Public (cont.)

E. Landlord Darlene Harper informed the Board that she had a tenant in her building who was abusing the laundry facilities, and expressed concerns that the proposed Rules changes pertaining to material changes in the terms of a tenancy could prevent her from taking the appropriate action.

F. A tenant asked whether the Commissioners were in favor of roommates not being evicted from their units.

IX. Calendar Items

November 4 & 11, 1997 - NO MEETINGS

November 12, 1997 - 6:00 p.m.

Public Hearing:

- Proposed Additions to the Rules and Regulations Pertaining to Material Changes in the Terms of a Tenancy

November 25, 1997 - 5:30 p.m.

6 appeal considerations

Old Business:

Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "MasterTenants"

X. Adjournment

President Lightner adjourned the meeting at 8:50 p.m.









October 31, 1997

**NOTICE OF PUBLIC HEARING**

DOCUMENTS DEPT.

DATE: November 12, 1997

NOV 03 1997

TIME: 6:00 P.M.

SAN FRANCISCO  
PUBLIC LIBRARYPLACE: 25 VAN NESS AVENUE (AT MARKET ST.)  
SUITE 70, LOWER LEVEL  
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE WHICH AMENDS SECTION 12.00 OF THE RULES AND REGULATIONS BY ADDING SECTIONS 12.20 AND 12.21. THESE PROPOSALS PERTAIN TO UNILATERAL CHANGES TO THE TERMS OF RENTAL AGREEMENTS AND EVICTIONS BASED ON BREACH OF SUCH MATERIALLY CHANGED TERMS. PLEASE NOTE THAT BOTH SECTIONS 12.20 AND 12.21 ARE ENTIRELY NEW.

Comments may be made in person at the hearing or submitted in writing prior to the hearing. Parties commenting at the public hearing may be limited to a maximum of three minutes per person at the Commission's discretion. So that Commissioners may have sufficient time to review written submissions, it is requested that those submissions be received at the Rent Board by Noon, November 7, 1997. Comments may be faxed to 252.4699 as well. Submissions after this date will not be reviewed by the Commissioners until the hearing date.

**-OVER-**



**PROPOSED AMENDMENTS TO SECTION 12.00  
OF THE RULES AND REGULATIONS**

Section 12.20 Evictions under Section 37.9(a)(2)

(a) Unilaterally Imposed Obligations And Covenants

For purposes of an eviction under Section 37.9(a)(2) of the Ordinance a landlord shall not endeavor to recover possession of a rental unit because of the tenant's alleged violation of a material obligation or covenant of tenancy, if such obligation or covenant was unilaterally imposed by the landlord and either was not included, or is not materially the same as the obligation or covenant, in the rental agreement mutually agreed to by the parties. The foregoing shall not apply to changes to material obligations or covenants required by law or to protect the health and safety of the occupants of the building.

(b) Landlord's Unreasonable Failure To Grant Consent

For purposes of an eviction under Section 37.9(a)(2) of the Ordinance a landlord shall not endeavor to recover possession of a rental unit because of the tenant's alleged violation of a material obligation or covenant of tenancy requiring the consent of the landlord, if such consent was unreasonably withheld.

Section 12.21 Evictions under Section 37.9(a)(5)

For purposes of an eviction under Section 37.9(a)(5) of the Ordinance a landlord shall not endeavor to recover possession of a rental unit because the tenant has refused, after written request or demand by the landlord, to agree to a material modification, amendment, extension or renewal of the existing rental agreement which contains a materially different term than is contained in the rental agreement mutually agreed to by the parties.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Wednesday, 6:00 p.m.,  
November 12, 1997  
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

AGENDA

- 1/12/97
- I. Call to Order
  - LARRY BEACH BECKER
  - SHIRLEY A. BIERLY II. Roll Call
  - DAVID GUSTAV GRUBER
  - ANTHONY J. JUSTMAN III. Approval of the Minutes
  - POLLY MARSHALL
  - EVERETT Q. MOORE IV. Remarks from the Public
  - NEVEO MOSSER
  - BARTHOLOMEW MURPHY V. Old Business

6:00 Public Hearing:

Proposed New Rules and Regulations Sections 12.20 and 12.21  
Pertaining to Unilateral Changes to the Terms of Rental Agreements  
and Evictions Based on Breach of Such Materially Changed Terms

- VI. Communications
- VII. Director's Report
- IV. Remarks from the Public (cont.)
- VIII. New Business
- IX. Calendar Items
- X. Adjournment

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## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

(2/97) lk/comm/accmgtg





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Wednesday, November 12, 1997 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

NOV 21 1997

LARRY BEACH BECKER

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY J. JUSTMAN

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

President Lightner called the meeting to order at 6:10 p.m.

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II. Roll Call

Commissioners Present: Becker; Gruber; Justman; Lightner;  
Marshall; Moore; Mosser; Wasserman.  
Commissioners not Present: Bierly.  
Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 28, 1997.  
(Becker/Gruber: 5-0)

IV. Remarks from the Public

A. Tenant Jose Morales stated that he hoped the new neutral Commissioner would listen to both sides and, if unsure, remand cases back to the hearing officer.

B. Robert Pender of the Tenants' Network informed all in attendance that Joan Williams of the Marina Cove Tenants' Association passed away two weeks ago.

C. Tenant Monique Moro-Jang inquired as to when in the Agenda it was appropriate to relate personal anecdotes pertaining to material changes in the terms of a tenancy.

D. In response to a request from a member of the public, Executive Director Grubb introduced new voting neutral Commissioner Anthony Justman.

V. Old Business

Public Hearing:



Proposed New Rules and Regulations Sections 12.20 and 12.21  
Pertaining to Unilateral Changes to the Terms of Rental Agreements and  
Evictions Based on Breach of Such Materially Changed Terms

A Public Hearing regarding proposed changes to the Rules and Regulations concerning evictions for breaches of covenants that are unilaterally imposed by landlords commenced at 6:20 p.m. and concluded at 7:45 p.m. Eighteen tenants or tenant representatives and fourteen landlords or landlord representatives commented on proposed changes to the Rules and Regulations as follows below:

1. Tenant William Brady, President of the Alliance to Empower the Latino Community, asked what is wrong with honoring a lease, especially in a city of roommates.
2. Tenant Jose Morales stated that he is afraid of losing his home because of the issuance of a Rent Board decision granting his Proposition I landlord a rent increase based on comparable rents.
3. Paul Diaz of the Fox Plaza Tenants' Association testified in support of the proposed new regulations.
4. Ted Gullickson from the Tenants' Union addressed the current housing crisis, and stated his belief that there are more evictions than ever due, in part, to unilateral changes by landlords in the terms of existing tenancies. Mr. Gullickson supported the proposed language as simple and uncomplicated, and expressed a fear that it would be "watered down."
5. Rob Huddleston of the Professional Property Managers' Association (PPMA) stated his belief that only a few unscrupulous landlords were taking advantage of the situation; and that the ability to make certain good and innocuous changes is essential for decent property management.
6. Eric Andresen, President of PPMA, stated that changes in the conditions of tenancies can be beneficial to other tenants in a building when a landlord is dealing with problem tenants; and the language of the proposed regulation is overly broad.
7. Landlord Robert Dewey complained that leases would have to get so complex in order to cover all contingencies that no tenant would be willing to sign.
8. Monique Moro-Jang informed the Board that she is a 32-year tenant who had previously always had permission to have pets, but she is now faced with eviction due to having two caged birds in her unit.
9. Tenant Robin Jacklih explained that, after three years, she is faced with a tremendous increase in the amount of her security deposit; and she does not feel that any existing legislation clearly gives her the right to say no.



10. Janan New, Executive Director of the San Francisco Apartment Association (SFAA), contended that the proposed Rules go too far in restricting responsible landlords' management of their property.

11. Kate Gordon of the Housing Rights Committee told the Board that they are getting up to ten calls each day regarding eviction for breach of all types of covenants in rental agreements, and that tenants who fight such attempts run the risk of ruining their credit records.

12. Rebecca Graf, a VISTA volunteer in the Tenderloin, stated that tenants do not have the economic resources to go to court.

13. Mark Stout of the Tenants' Convention Coalition stated that it is inequitable for one side to change the terms of a contract.

14. Robert Pender of the Tenants' Network expressed his belief that the system is slanted in favor of landlords, and that tenants are afraid to fight.

15. Brook Turner from the Coalition for Better Housing said that the proposals go too far in that revolving tenancies constitute a real problem and that "pied a terres" contribute to the lack of vacancies in the City.

16. Tenants' Attorney Scott Weaver said that the proposals are just an extension of Ordinance Section 37.9(a)(5); are the most cogent language in the Ordinance and Rules; and that people on both sides have to live with their deals.

17. Landlords' Attorney Nancy Lenvin said that she believes proposed Section 12.20 has some major legal problems, and that proposed Section 12.21 is unnecessarily duplicative in that the Rent Board's eviction procedures work well.

18. Jim Fabris, President of the Board of Realtors, stated his opinion that the Tenant Commissioners were seeking to derogate property rights, and asked that the proposals be tabled or referred to the Board of Supervisors.

19. Tim Carrico of TCO Property Management stated that abuses need to be dealt with, but that managing roommate situations is an ever-increasing problem.

20. Landlord Sarosh Kumana said that there are more unscrupulous and deceitful tenants than landlords.

21. Brad Hume from the Housing Rights Committee (HRC) contended that the current laws are a "hodgepodge", and that there is nothing clear to tell people.

22. Jean Chang from the HRC expressed her support for the proposals.





23. Matt Brown, Executive Director of St. Peter's Housing Committee, stated "crises breed creativity" and contended that the Rent Board doesn't have the resources to adjudicate evictions.

24. Landlord Jeffrey Leibovitz said that there are adequate rules on the books already, and that the issue is one of enforcement.

25. Proposition I landlord Nancy Tucker complained of having very aggressive tenants and said that she couldn't understand "one word" of the proposals.

26. Miguel Wooding of the Tenants' Union expressed his view that the proposals merely reflect existing law, but it would be advantageous to have things spelled out clearly and in one location.

27. Ira Dorter, a 15-year counselor at the Tenants' Union, said that he has seen a change in the types of problems that tenants come in with and that the ability of landlords to effect unilateral changes in terms eviscerates the intent and purpose of the rent law.

28. Jude Alls from the Tenants' Union said that she has won four out of five court battles.

29. A tenant named Jim said that he pays \$2,600 for a two-bedroom apartment but he has been refused permission to obtain a roommate.

30. Landlord Al Goodwin stated that rents are indeed outrageous, but that it is because of the laws of supply and demand; that Proposition I is driving the crisis; and that "every time you tighten the screws, landlords profit."

31. Proposition I landlord Dawn Bellach told the Board that she should have the right to live with whomever she chooses and that the passage of Proposition I has led to hundreds of units being taken off the rental market.

32. Landlord Irving Zaretsky claimed that the majority of problems are between tenants (lifestyle; smoking; exercise habits; etc.).

After discussion of the public's comments and review of the draft language, proposed new Rules and Regulations Section 12.20(a) was passed with minor modifications, as follows below:

Section 12.20 Evictions under Section 37.9(a)(2)

(a) Unilaterally Imposed Obligations and Covenants

For purposes of an eviction under Section 37.9(a)(2) of the Ordinance, a landlord shall not endeavor to recover possession of a rental unit because of the tenant's alleged violation of an obligation or covenant of the tenancy, if such



obligation or covenant was unilaterally imposed by the landlord and not agreed to by the tenant and either was not included, or is not materially the same as an obligation or covenant in the rental agreement mutually agreed to by the parties. The foregoing shall not apply to: (1) changes in obligations or covenants that are not material; (2) changes in material obligations or covenants required by law or to protect the health, safety and quiet enjoyment of the occupants of the building or adjoining properties; or (3) material changes that have resulted in a substantial decrease in housing services with respect to garage, storage space, or access to common areas for which a commensurate rent reduction has been provided to the landlord; and (4) rent increases or other changes in the terms of a tenancy authorized under the Rent Ordinance and Rules and Regulations.

MSC: To adopt proposed new Rules and Regulations Section 12.20(a), as amended. (Becker/Marshall: 4-1; Gruber dissenting)

Discussion of proposed Rules Sections 12.20(b) and 12.21 was continued to the meeting on November 25th; Commissioner Becker will re-draft Section 12.21 to more closely mirror Ordinance Section 37.9(a)(5). Proposed Section 6.15 pertaining to changes in roommates and "Master Tenant" issues will also be discussed on that date.

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a letter from Attorney Ivan Rothman concerning an unlawful detainer case he is currently defending. In a pre-trial ruling, Judge Quidachay of the Municipal Court issued an order precluding evidence of comparable vacancies available at any time other than during the 30-day notice period. In the event that he should have to file an appeal, Mr. Rothman requests that the Board consider filing an amicus brief. The Commissioners agreed to place this issue on the November 25th Board meeting calendar.

#### VII. Director's Report

Executive Director Grubb informed the Commissioners that Citizens' Complaint Officer Doris Charles has left the Rent Board to accept a position with the Office of the Public Guardian/Administrator.

#### IV. Remarks from the Public (cont.)

D. Tenant Monique Moro-Jang thanked the Commissioners for their hard work.

E. Miguel Wooding of the Tenants' Union reiterated the sentiments he expressed at the Public Hearing.



F. Attorney Nancy Lervin stated her hope that the new Regulation would be understandable to the public.

G. Paul Diaz of the Fox Plaza Tenants' Association informed the Board that two tenants in the building had committed suicide recently.

VIII. Calendar Items

November 18, 1997 - NO MEETING

November 25, 1997 - 5:30 p.m.

6 appeal considerations

Old Business:

Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"

December 2, 1997 - NO MEETING

IX. Adjournment

President Lightner adjourned the meeting at 9:30 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 5:30 p.m.,  
November 25, 1997

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

NOV 24 1997

SAN FRANCISCO  
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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 2410 - 27th Ave. #1

S001-22A

The landlord appeals the decision ordering refunds due to rent overpayments.

B. 1049 So. Van Ness Ave.

S001-36R

The tenant appeals the portion of the decision determining only slight overpayments in rent.

C. 700 - 29th Ave. #8

S001-37R

The tenant appeals the decision denying his claim of unlawful rent increase.

D. 1217 Kearny St., Apt. D

S001-38R

The tenant appeals the dismissal of his petition alleging a substantial decrease in housing services due to his failure to appear at the hearing.

E. 707 - 711A San Jose Ave.

S001-23A

The landlords appeal the portion of the decision denying imputed interest on their uncompensated labor costs.



F. 259 Peralta Ave.

S001-39R

The tenants appeal the decision granting certification of capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"

IV. Remarks from the Public (cont.)

IX. New Business

Wilson v. Partridge (Municipal Court Case No. 147769)

X. Calendar Items

XI. Adjournment





**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER  
PRESIDENT

SHARON K. WASSERMAN  
VICE-PRESIDENT

Tuesday, November 25, 1997 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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LARRY BEACH BECKER  
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ANTHONY J. JUSTMAN  
POLLY MARSHALL  
EVERETT Q. MOORE  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Lightner called the meeting to order at 5:43 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Justman; Lightner;  
Marshall; Moore; Mosser.  
Commissioners not Present: Wasserman.  
Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 28, 1997.  
(Marshall/Becker: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Board that there was a well-attended demonstration in support of the Tenants' Bill of Rights in front of City Hall on November 24th. Tenant Monique Moro-Jang informed the Commissioners that the eviction notice she had received for having two birds in her apartment had been rescinded.

V. Consideration of Appeals

A. 2410 - 27th Ave. #1

S001-22A

The tenant's petition alleging unlawful increases in rent was granted, and the landlord was found liable to the tenant in the amount of \$9,216.36. On appeal, the landlord maintains that the hearing officer erred in not including banked amounts from rent increases that were declared null and void in the decision when determining the legality of increases imposed at a later date, even though the excessive amounts were still being paid; that the tenant consented to the unlawful amounts, even though she was aware of the rent increase limitations



in the Ordinance; and that the tenant sat on her rights for over ten years, to the detriment of the landlord.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

B. 1049 So. Van Ness Ave.

S001-36R

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$5,445.00 due to defective conditions on the premises. The tenant's claim of unlawful rent increases was only granted in the amount of \$55.54, because the hearing officer found that the tenant had been a co-owner of the property during a portion of the time period in question. On appeal, the tenant provides documentary evidence showing that he paid rent to the new owners of the property during a period of time when the hearing officer determined that he was not a tenant.

MSC: To accept the appeal and remand the case for a hearing on the issue of the rent history only, including terms of the sale of the property and representations made by the parties.  
(Marshall/Becker: 5-0)

C. 700 - 29th Ave. #8

S001-37R

The tenant's petition alleging an unlawful increase in rent was denied. Although the tenant's rent was increased nine days prematurely in 1985, the tenant had filed two previous petitions challenging rent increases and had failed to raise the instant claim on either of those occasions. Therefore, since the tenant's base rent amount had been held to be valid in two prior decisions, the hearing officer found the issue to be res judicata. On appeal, the tenant asserts several factual inaccuracies and bias against him on the part of the hearing officer; and that the timelines for scheduling a hearing and issuing a decision in this case exceeded those mandated in the Ordinance.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. 1217 Kearny St., Apt. D

S001-38R

The tenant's petition alleging a substantial decrease in housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he mistakenly entered the hearing date on his calendar as October 9th instead of October 7th, and asks the Board's indulgence in granting him another hearing.

MSC: To accept the appeal and remand the case for a new hearing. In scheduling the remand hearing, every effort will be made to accommodate the landlord. (Becker/Marshall: 5-0)





E. 707 - 711A San Jose Ave.

S001-23A

The landlords' petition for rent increases based on increased operating expenses and certification of capital improvement costs was granted, in part. The landlords had performed much of the capital improvement work themselves, and were compensated at either the prevailing labor or licensed contractor rate. Interest on their uncompensated labor costs was denied as not being an actual cost. The landlords appeal the decision only on the issue of imputed interest on uncompensated labor costs, alleging that: this policy unfairly penalizes small property owners, who do not necessarily have the financial means to hire an outside contractor; the costs to the tenants would have been greater if an outside contractor had been used, but the landlords would have received interest on those costs; and the Board's policy on this issue is depriving them of a fair return on their investment.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Lightner dissenting)

F. 259 Peralta Ave.

S001-39R

The landlords' petition for certification of capital improvement costs to the tenants in one unit of a two-unit building was granted, in part. The tenants appeal the decision on the grounds that: the capital improvement work was the result of deferred maintenance; the newly constructed carport does not have a roof and is of no real benefit to the tenants; and the tenants should not have to pay for the demolition of the garage because it was in a dilapidated condition and they had been unable to use it prior to its having been torn down.

MSC: To accept the appeal and remand the case for a new hearing on the issue of the benefit of the newly constructed carport to these tenants, considering their individual circumstances and the unique facts of this case. (Marshall/Justman: 5-0)

## VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The Mediation and Office Workload Statistics for the month of October.

B. A copy of a 3-Day Notice to Perform Covenant or Quit given to tenants George Jang and Monique Moro-Jang because of the presence of two birds in their unit.

C. An article on the front page of the November 13th S.F. Examiner regarding the Board's enactment of Rules and Regulations Section 12.20(a) pertaining to evictions for breaches of unilaterally imposed covenants, and a letter from tenant James Delaney supporting the Board's action.



VII. Director's Report

Executive Director Grubb informed the Commissioners that four new hearing officers have been hired to fill three full-time positions and will commence employment as of January 1st. It is anticipated that the new staff members will be conducting hearings as of February 1st, which should aid in reduction of the hearing backlog. He and Deputy Director Wolf received the Commissioners' assent to their proposal that the monthly Mediation Summaries provided to the Board include only agreements that include a provision that the tenant(s) will vacate the unit.

VIII. Old Business

The Board's discussion of proposed additions to the Rules and Regulations pertaining to evictions for breach of unilaterally imposed covenants, changes in roommates and "Master Tenants" was continued to the December 9th Board meeting.

IV. Remarks from the Public (cont.)

The tenant involved in the case at 259 Peralta Ave. (S001-39R) addressed the Board regarding the deferred maintenance defense that he raised to the landlord's capital improvement passthrough.

IX. New Business

The Board briefly discussed Wilson v. Partridge (Municipal Court Case No. 147769), an unlawful detainer action currently before Judge Quidachay. In a pre-trial ruling, the Judge had issued an order precluding evidence of comparable vacancies available at any time other than during the 30-day notice period. Defendant's attorney Ivan Rothman had written to the Board requesting that the Commissioners consider filing an amicus brief if he should have to file an appeal. Since Mr. Rothman could not appear at this evening's meeting, the Board continued discussion of this matter to the December 9th meeting and asked that Deputy Director Wolf invite both Mr. Rothman and counsel for the plaintiff to address them at that time.

X. Calendar Items

December 2, 1997 - NO MEETING

December 9, 1997

1 appeal consideration

Old Business:

- A. Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates and "Master Tenants"

- B. Report on Wilson v. Partridge (Municipal Court Case No. 147769)



December 16, 23 & 30, 1997 - NO MEETINGS (Happy Holidays!)

XI. Adjournment

President Lightner adjourned the meeting at 7:30 p.m.







NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

MERRIE T. LIGHTNER  
PRESIDENT

Tuesday, 5:30 p.m.,  
December 9, 1997

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 34 - 6th St. #607

S001-40R

The tenant appeals the dismissal of his petition alleging a substantial decrease in housing services.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

A. Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Evictions for Breach of Unilaterally Changed Covenants; Changes in Roommates; and "Master Tenants"

B. Report on Wilson v. Partridge  
(Municipal Court Case No. 147769)

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment





MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.  
MAYOR

Tuesday, December 9, 1997 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

MERRIE T. LIGHTNER  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

SHARON K. WASSERMAN  
VICE-PRESIDENT

I. Call to Order

President Lightner called the meeting to order at 5:45 p.m.

LARRY BEACH BECKER II. Roll Call

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

ANTHONY J. JUSTMAN

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

Commissioners Present:

Bierly; Lightner; Marshall; Moore; Mosser;  
Wasserman.

Commissioners not Present:

Becker; Justman; Murphy.

Staff Present:

Grubb; Wolf.

Commissioner Gruber appeared on the record at 5:48 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 25, 1997.  
(Marshall/Mosser: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Commissioners that there would be a hearing on proposed legislation restricting owner move-in evictions before the Housing and Neighborhood Services Committee of the Board of Supervisors on December 10th at noon. He also remarked on an article in the newspaper concerning a tenant who was shot to death by his landlord.

V. Consideration of Appeals

A. 34 - 6th St. #607

S001-40R

The tenant's petition alleging substantially decreased housing services was dismissed due to his failure to appear at the hearing. On appeal, the tenant claims not to have received notice of the hearing because it was mailed to his residence and not to his post office box.

MSC: To accept the appeal and remand the case for a new hearing.  
(Wasserman/Marshall: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from Attorney Michael Hall withdrawing a 3-Day Notice to Quit based on the landlord's having rescinded the tenant's right to have pets in the unit, pursuant to the Board's enactment of Rules and Regulations Section 12.20(a).

B. A new roster of Rent Board Commissioners.



C. A letter from landlord Roger Kwan questioning the effectiveness of rent control.

VII. Old Business

Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates

Commissioner Marshall distributed a revised version of proposed new Rules and Regulations Section 6.15, which would: require disclosure and explanation by the landlord to the tenant of any absolute prohibition against subletting and assignment; explain what constitutes unreasonable withholding by the landlord of consent to a new roommate; and specify that failure by the landlord to consent to a replacement tenant in a unit could constitute a decrease in housing services. It was agreed among the Commissioners present that the proposed Rule, if adopted, would apply only to leases entered into after the effective date of the new Regulation. Because the Commissioners had not had adequate time to review the proposal, discussion of this issue was continued to the January 6, 1998 Board meeting.

VIII. Calendar Items

December 16, 23 & 30, 1997 - NO MEETINGS (Happy Holidays!)

January 6, 1998

8 appeal considerations

2 eviction recommendations

Old Business:

Continued Discussion of Proposed Additions to the Rules and Regulations Pertaining to Changes in Roommates, "Master Tenants" and Eviction for Breach of Unilaterally Imposed Covenants

New Business: Budget

The Rent Board's Holiday Party will be held at 2:00 p.m. on December 21st at the South End Rowing Club.

IX. Adjournment

President Lightner adjourned the meeting at 6:05 p.m.

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